CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

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ONE ORIGINAL ONLY STAPLED TO DOCUMENTS	Planning & Zoning COMMI			5 January 2020 DATE	Planning & Development DIVISION
		PUBLIC	SESSION:	5 January 2020 DATE	
ITEM (CHECK ONE)					
ORDINANCE X RESOLUTION OTHER:	CONDEMNA GRANT APP	TIONS LICATION _	GRANT REQUE	SACCEPTANCE A ST FOR PUBLIC	/ AMENDMENT HEARING
ITEM DESCRIPTION:	A resolution approving a planned residential development with reduced minimum lot size and building setbacks				
CASE NUMBER:	PD 20-13				
DEVELOPMENT:	Tanglewood Place Planned Development				
LOCATION:	795 Tanglewood Street and one adjacent parcel				
COUNCIL DISTRICTS:	District 4 and Super District 8				
OWNER/APPLICANT:	795 Tanglewood, LLC				
REPRESENTATIVE:	Tim McCaskill of McCaskill and Associates				
EXISTING ZONING:	Residential – 6				
REQUEST:	Planned residential development with reduced minimum lot size and building setbacks				
AREA:	1.2 acres				
RECOMMENDATION:	The Division of Planning and Development recommended The Land Use Control Board recommended Approval with conditions Approval with conditions				
RECOMMENDED COUNC	CIL ACTION: Pu	blic Hearing	Not Required		
PRIOR ACTION ON ITEM:	======================================	=======		========	
(1) 10 December 2020		APPROV. DATE	AL - (1) APPR	OVED (2) DENIE	D
(1) Land Use Control Board		ORGANIZATION - (1) BOARD / COMMISSION (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE			
FUNDING:					
(2) \$		REQUIRES CITY EXPENDITURE - (1) YES (2) NO AMOUNT OF EXPENDITURE			
\$ SOURCE AND AMOUNT O	DE EUNDS	REVENU	E TO BE REC	EIVED	
\$	or runds	OPERAT	ING BUDGET		
<u>\$</u>		CIP PROJECT # FEDERAL/STATE/OTHER		ED	
		ΓΕ D EKA.			
ADMINISTRATIVE APPRO	JVAL:		<u>DATE</u>	<u>POSITION</u>	
				MUNICIPAL PI	
				DEPUTY ADM	INISTRATOR
				ADMINISTRAT	TOR
				DIRECTOR (JO	INT APPROVAL)
				COMPTROLLE	R
				FINANCE DIRE	ECTOR
				CITY ATTORN	EY
	=			CHIEF ADMIN	ISTRATIVE OFFICER
				COMMITTEE (CHAIRMAN



Memphis City Council Summary Sheet

PD 20-13 - Tanglewood Place Planned Development

Resolution approving a planned residential development to reduce minimum lot size and minimum building setbacks at 795 Tanglewood Street and one adjacent parcel:

- This item is a resolution with conditions approving a special use permit for the above;
- The Division of Planning and Development sponsors this resolution at the request of the owner and applicant: 795 Tanglewood, LLC; and Representative: Tim McCaskill of McCaskill and Associates, Inc.; and
- This resolution, if approved with conditions, will supersede the existing zoning for this property.

RESOLUTION APPROVING THE TANGLEWOOD PLACE PLANNED DEVELOPMENT AT 795 TANGLEWOOD STREET AND ONE ADJACENT PARCEL, KNOWN AS PD 20-13.

WHEREAS, Chapter 9.6 of the Memphis and Shelby County Unified Development Code, being a section of the Joint Ordinance Resolution No. 5367, dated 10 August 2010, authorizes the Council of the City of Memphis to grant a planned development for certain stated purposes in the various zoning districts; and

WHEREAS, the 795 Tanglewood, LLC, filed an application with the Memphis and Shelby County Division of Planning and Development to permit a planned residential development with reduced minimum lot size and building setbacks; and

WHEREAS, the Division of Planning and Development has received and reviewed the application in accordance with procedures, objectives, and standards for planned developments as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and the consistency of its design and amenities with the public interest; and has submitted its findings concerning the above considerations and recommendation to the Memphis and Shelby County Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on 10 December 2020, and said Board has submitted its recommendation of approval subject to conditions to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 General Plan; and

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and has determined that said development meets the objectives, standards, and criteria for a special use permit, and said development is consistent with the public interests.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF MEMPHIS, that, pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code, a planned development is hereby granted subject to the attached outline plan conditions.

BE IT FURTHER RESOLVED, that the requirements of said aforementioned section of the Unified Development Code shall be deemed to have been complied with; that the outline plan shall bind the applicant, owner, mortgagee, if any, and the legislative body with respect to the contents of said plan; and the applicant and/or owner may file a final plan in accordance with said outline plan and the provisions of Section 9.6.11 of the Unified Development Code.

OUTLINE PLAN CONDITIONS

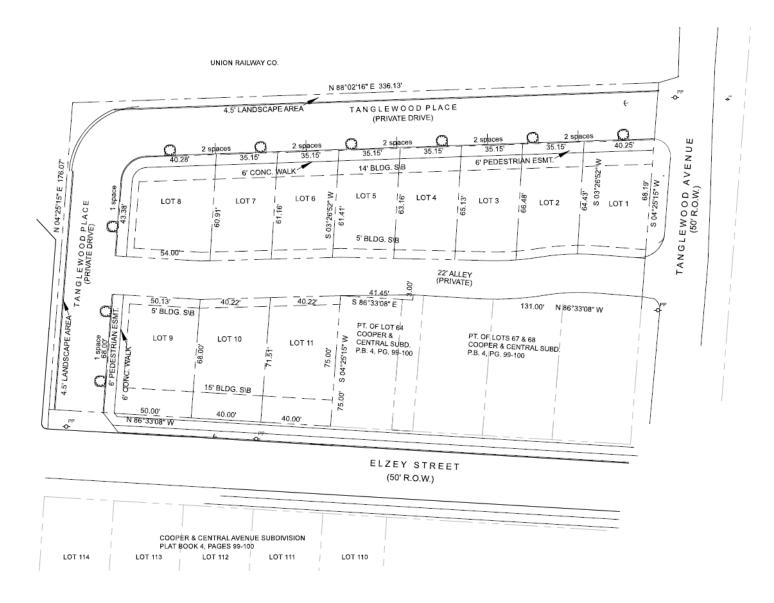
- I. Permitted Uses
 - A. Uses shall be permitted as if zoned Residential 6, with the following exception:
 - 1. No short-term rental housing shall be permitted.
- II. Building Envelope Standards
 - A. Reverse frontage lots shall not be permitted, and no street shall be constructed that would cause an adjacent lot to have a reverse frontage.
 - B. Every lot shall have rear vehicular access only. The Zoning Administrator may grant an exception for a corner lot to have side street vehicular access.
 - C. Building Height
 - 1. The maximum height shall be 30 feet.
 - 2. The maximum number of stories shall be 1.5.
 - D. There shall be no minimum lot area.
 - E. Lot Width
 - 1. The minimum lot width shall be 40 feet for lots with Elzey frontage.
 - 2. Otherwise, the minimum lot width shall be 25 feet.
 - F. Setbacks
 - 1. The minimum setbacks shall be:
 - a. Front: 15 feet.
 - i. Unenclosed porches may encroach up to 8 feet into the front setback.
 - b. Side (interior): 2.5 feet.
 - c. Side (street): 10 feet.
 - d. Rear: 15 feet.
 - Garages either detached or attached may encroach into the rear setback provided they are sited exactly 5 feet from the rear property line.
 - G. Curb and gutter are required along all adjacent and proposed streets.
 - H. Front porches with a minimum of depth of 8 feet shall be required.
 - I. The finished ground floor shall be raised a minimum of 18 inches above the top of grade.
- III. General Development Standards
 - A. Streetscaping and Landscaping
 - 1. A modified S-13, S-14, or S-15 streetscape plate shall be installed along the south of the east-west segment and the east of the north-south segment of the proposed street, as well as along the site's Elzey and Tanglewood frontages, subject to approval of the Zoning Administrator.
 - 2. The streetscape plates may be dedicated as right-of-way or overlaid with perpetual and general public access easements.
 - A landscape area with a minimum width of 4.5 feet shall be installed along the north of the east-west segment and the west of the north-south segment of the proposed street.
 - 4. The landscaping shall emphasize native plants.
 - 5. Sidewalks may be required to be repaired, as well as unused curb cuts closed with the appropriate streetscape plate.
 - 6. Fencing and Walls
 - a. Fencing and walls shall be subject to the Midtown District fencing standards.
 - b. Any existing chain link shall be removed.

- B. If any common open space is provided, a homeowners association shall be required to own and maintain said land.
- IV. Infrastructure and Public Improvements
 - A. No dead-end alleys or streets shall be permitted.
 - B. A street shall be improved and dedicated along the western and northern perimeters of the site.
 - 1. The street shall have a maximum width of 28 feet, as measured from curb back to curb back. This width is meant to provide for two parking lanes and one shared travel lane, and may be reduced if parking is eliminated, subject to approval of the Zoning Administrator.
 - C. An alley shall be improved and dedicated that provides rear vehicular access to all proposed lots.
 - 1. The alley shall have a 14-foot travel lane and a minimum right-of-way of 22 feet.
 - D. The developer may choose not to dedicate the street and/or alley, provided the following standards are met:
 - 1. The street and/or alley shall be overlaid with a perpetual and general public access easement. The alley shall be accessible to all adjacent Elzey lots.
 - 2. No gates shall be permitted.
 - 3. All City standards for streets and alleys shall be met. A valley gutter shall not satisfy the street curb requirement.
 - E. Overhead utility poles shall not be permitted, unless otherwise approved by both Memphis Light, Gas, and Water, and the Zoning Administrator.

V. Miscellaneous

- A. Where the outline plan conditions and the Unified Development Code conflict, the former shall apply. Otherwise, all standards of the Unified Development Code shall apply.
- B. All construction shall be subject to the approval of the Landmarks Commission in accordance with the Cooper-Young Historic District design guidelines.
- C. If the railroad right-of-way to the north of the site is acquired by the developer, said acquired land may be incorporated into this planned development, subject to approval of the Zoning Administrator.
 - 1. In this event, the proposed street should be shifted to the north. The site should be configured in such a way that the proposed street coheres with Saulsbury.

PROPOSED CONCEPTUAL SITE PLAN



ATTEST:

CC: Division of Planning and Development

- Land Use and Development Services
- Construction Code Enforcement

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday 10 December 2020*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: PD 20-13

DEVELOPMENT: Tanglewood Place Planned Development

LOCATION: 795 Tanglewood Street and one adjacent parcel

COUNCIL DISTRICT(S): District 4 and Super District 8

OWNER/APPLICANT: 795 Tanglewood, LLC

REPRESENTATIVE: Tim McCaskill of McCaskill and Associates, Inc.

REQUEST: Planned residential development with reduced minimum lot size and

building setbacks

EXISTING ZONING: Residential – 6

AREA: 1.2 acres

The following spoke in support of the application: Tim McCaskill

The following spoke in opposition to the application: Olivia Wall

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend *approval* subject to the attached conditions.

The motion passed by a unanimous vote.

RECOMMENDED OUTLINE PLAN CONDITIONS

- VI. Permitted Uses
 - B. Uses shall be permitted as if zoned Residential -6, with the following exception:
 - 2. No short-term rental housing shall be permitted.
- VII. Building Envelope Standards
 - J. Reverse frontage lots shall not be permitted, and no street shall be constructed that would cause an adjacent lot to have a reverse frontage.
 - K. Every lot shall have rear vehicular access only. The Zoning Administrator may grant an exception for a corner lot to have side street vehicular access.
 - L. Building Height
 - 1. The maximum height shall be 30 feet.
 - 2. The maximum number of stories shall be 1.5.
 - M. There shall be no minimum lot area.
 - N. Lot Width
 - 1. The minimum lot width shall be 40 feet for lots with Elzey frontage.
 - 2. Otherwise, the minimum lot width shall be 25 feet.
 - O. Setbacks
 - 1. The minimum setbacks shall be:
 - a. Front: 15 feet.
 - i. Unenclosed porches may encroach up to 8 feet into the front setback.
 - b.Side (interior): 2.5 feet.
 - c. Side (street): 10 feet.
 - d. Rear: 15 feet.
 - i. Garages either detached or attached may encroach into the rear setback provided they are sited exactly 5 feet from the rear property line.
 - P. Curb and gutter are required along all adjacent and proposed streets.
 - Q. Front porches with a minimum of depth of 8 feet shall be required.
 - R. The finished ground floor shall be raised a minimum of 18 inches above the top of grade.
- VIII. General Development Standards
 - C. Streetscaping and Landscaping
 - 1. A modified S-13, S-14, or S-15 streetscape plate shall be installed along the south of the east-west segment and the east of the north-south segment of the proposed street, as well as along the site's Elzey and Tanglewood frontages, subject to approval of the Zoning Administrator.
 - 2. The streetscape plates may be dedicated as right-of-way or overlaid with perpetual and general public access easements.
 - 3. A landscape area with a minimum width of 4.5 feet shall be installed along the north of the east-west segment and the west of the north-south segment of the proposed street.
 - 4. The landscaping shall emphasize native plants.
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 - 6. Fencing and Walls
 - a. Fencing and walls shall be subject to the Midtown District fencing standards.
 - b. Any existing chain link shall be removed.
 - D. If any common open space is provided, a homeowners association shall be required to own and maintain said land.
 - IX. Infrastructure and Public Improvements

- F. No dead-end alleys or streets shall be permitted.
- G. A street shall be improved and dedicated along the western and northern perimeters of the site.
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- H. An alley shall be improved and dedicated that provides rear vehicular access to all proposed lots.
 - 1. The alley shall have a 14-foot travel lane and a minimum right-of-way of 22 feet.
- I. The developer may choose not to dedicate the street and/or alley, provided the following standards are met:
 - 1. The street and/or alley shall be overlaid with a perpetual and general public access easement. The alley shall be accessible to all adjacent Elzey lots.
 - 2. No gates shall be permitted.
 - 3. All City standards for streets and alleys shall be met. A valley gutter shall not satisfy the street curb requirement.
- J. Overhead utility poles shall not be permitted, unless otherwise approved by both Memphis Light, Gas, and Water, and the Zoning Administrator.

X. Miscellaneous

- D. Where the outline plan conditions and the Unified Development Code conflict, the former shall apply. Otherwise, all standards of the Unified Development Code shall apply.
- E. All construction shall be subject to the approval of the Landmarks Commission in accordance with the Cooper-Young Historic District design guidelines.
- F. If the railroad right-of-way to the north of the site is acquired by the developer, said acquired land may be incorporated into this planned development, subject to approval of the Zoning Administrator.
 - 1. In this event, the proposed street should be shifted to the north. The site should be configured in such a way that the proposed street coheres with Saulsbury.

AGENDA ITEM: 2

CASE NUMBER: PD 20-13 L.U.C.B. MEETING: 10 December 2020

DEVELOPMENT: Tanglewood Place Planned Development

LOCATION: 795 Tanglewood Street and one adjacent parcel

COUNCIL DISTRICT: District 4 and Super District 8

OWNER/APPLICANT: 795 Tanglewood, LLC

REPRESENTATIVE: Tim McCaskill of McCaskill and Associates, Inc.

REQUEST: Planned residential development to reduce minimum lot size and minimum

building setbacks

AREA: 1.2 acres

EXISTING ZONING: Residential – 6 (Historic)

CONCLUSIONS (p. 23)

- 1. 795 Tanglewood, LLC, has requested a special use permit for a planned residential development to reduce minimum lot size and minimum setbacks. The applicant intends to pave a new street and alley, and construct approximately 11 homes.
- Staff has collaborated with both the developer and the Cooper-Young Community Association to craft a plan that provides greater choice in local housing types while remaining consistent with the context of the neighborhood.
- 3. The proposed configuration, as conditioned, allows for an outward-facing development that integrates into the existing neighborhood street network and increases connectivity.

CONSISTENCY WITH MEMPHIS 3.0 (pp. 28-30)

Per the Office of Comprehensive Planning, this proposal is *consistent* with the Memphis 3.0 General Plan.

RECOMMENDATION (pp. 23-24)

Approval with conditions

Staff Writer: Brett Davis E-mail: brett.davis@memphistn.gov

GENERAL INFORMATION

Street Frontage: Elzey Avenue (Local Street) 162 linear feet

Tanglewood Street (Local Street) 130 linear feet

Zoning Atlas Page: 2035

Parcel ID: 031130 00003C and 031130 00010

Existing Zoning: Residential – 6 (Historic)

NEIGHBORHOOD MEETING

The required neighborhood meeting was held telephonically at 6 p.m. on Wednesday 21 October 2020.

PUBLIC NOTICE

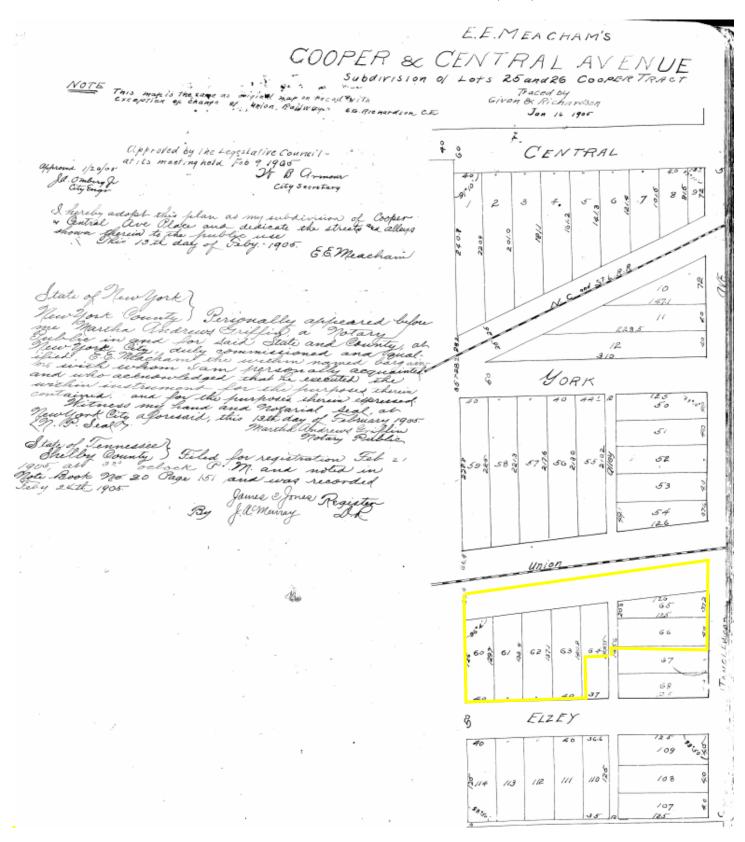
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 126 notices were mailed on 30 October 2020, and a total of two signs posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located in Cooper-Young

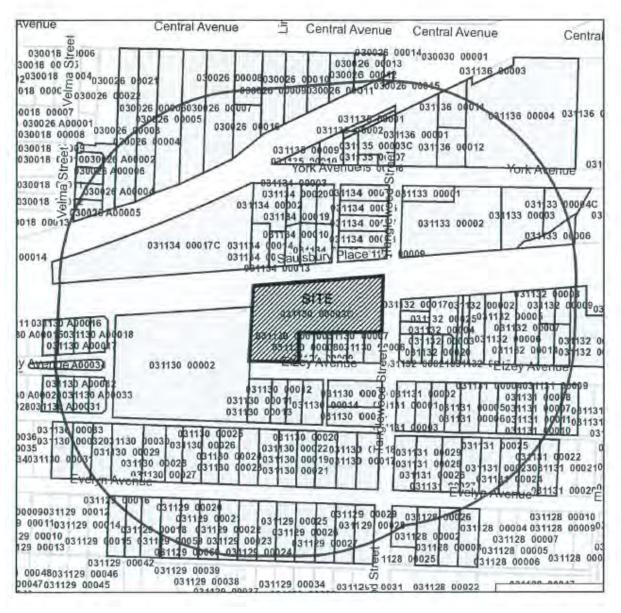
MEACHEM'S COOPER AND CENTRAL AVENUE SUBDIVISION (1905)



Subject property consists of Lots 60, 61, 62, 63, 65, and 66; parts of Lots 64 and 67; a vacated part of the Union Pacific railroad; and a vacated part of an alley. The approximate boundaries of the property have been outlined in yellow.

VICINITY MAP





AERIAL



ZONING MAP



Existing Zoning: Residential – 6 (Historic) with Midtown District Overlay

Surrounding Zoning

North: Residential Urban – 1 (Historic) with Midtown District Overlay

East: Residential – 6 (Historic) and Employment with Midtown District Overlay

South: Residential – 6 (Historic) with Midtown District Overlay

West: Employment with Midtown District Overlay

LAND USE MAP



SITE PHOTOS



View of on-site structure from Elzey



View of on-site structure from Tanglewood



View east down Elzey



View west down Elzey



View west down the railroad right-of-way.

The site's fencing extends beyond the property line into the railroad right-of-way.



Alternative view west down the railroad right-of-way



View west down Saulsbury.

Saulsbury is a 20-foot street to the north of the railroad right-of-way. Saulsbury has never been formally dedicated.



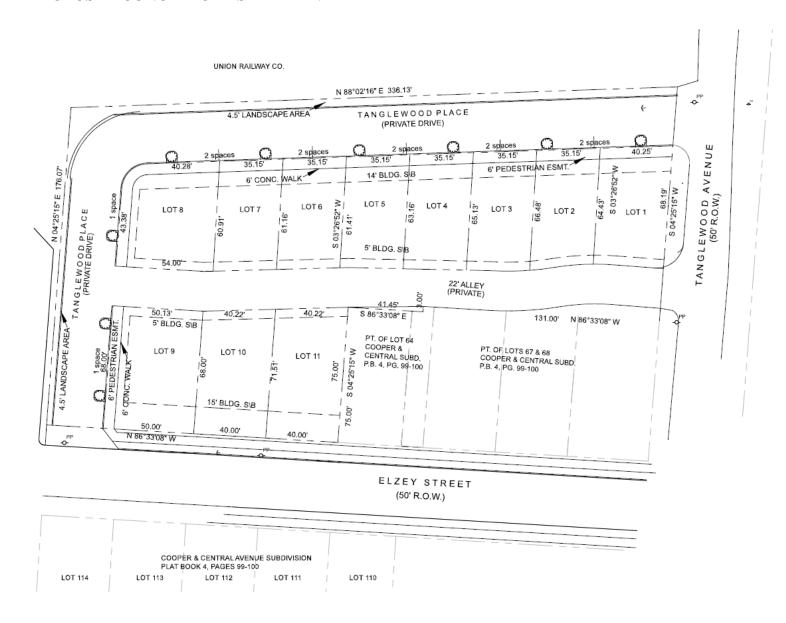
View east down Saulsbury.

This land has a higher elevation than the subject site.



View south down Tanglewood from Saulsbury

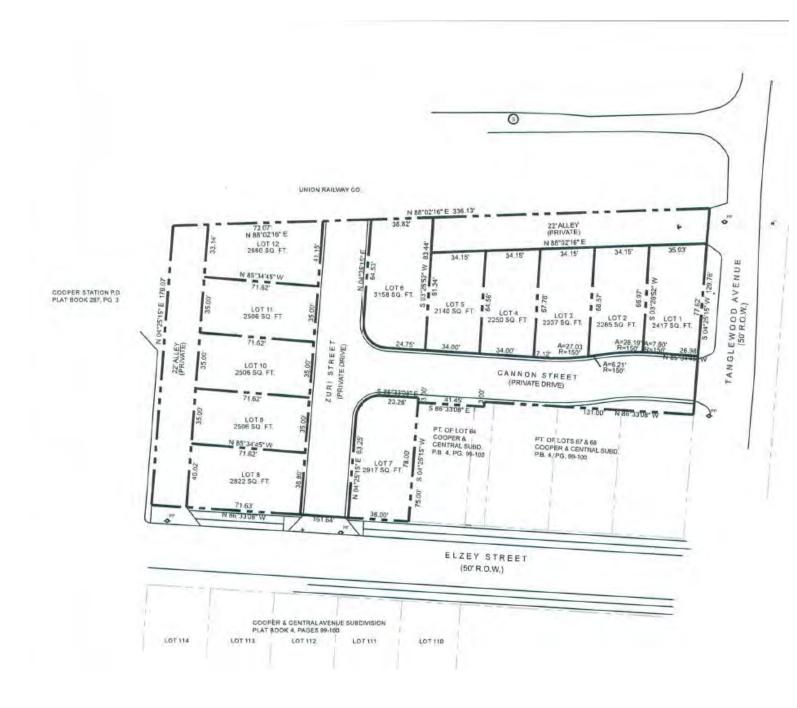
PROPOSED CONCEPTUAL SITE PLAN



A full site plan review, subject to the outline plan conditions, will take place during outline/final plan review – if approved.

Staff has encouraged the applicant to acquire the remaining railway right-of-way to the north of the subject site, and incorporate it into the site configuration. (See Condition V.C.; elevation changes would need to be addressed.)

FORMERLY PROPOSED CONCEPTUAL SITE PLAN



This plan was modified due to staff concerns, including:

- its inward orientation,
- new dead-end streets and alleys,
- a distance of less than 150 feet between Elzey Street and the proposed east-west street,
- a failure to address the existing dead-end at Elzey, and
- causing existing Elzey lots to have reverse frontages.

STAFF ANALYSIS

Request

The request is for a planned residential development to reduce minimum lot size and minimum building setbacks.

The application and letter of intent have been added to this report.

Applicability

Staff *agrees* that one or more applicability objectives as set out in Section 4.10.2 of the Unified Development Code are or will be met.

4.10.2 Applicability

The governing bodies may, upon proper application, grant a special use permit for a planned development (see Chapter 9.6) for a tract of any size within the City or for tracts of at least three acres in unincorporated Shelby County to facilitate the use of flexible techniques of land development and site design, by providing relief from district requirements designed for conventional developments, and may establish standards and procedures for planned developments in order to obtain one or more of the following objectives:

- A. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.
- B. Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.
- C. Functional and beneficial uses of open space areas.
- D. Preservation of natural features of a development site.
- E. Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.
- F. Rational and economic development in relation to public services.
- G. Efficient and effective traffic circulation, both within and adjacent to the development site, that supports or enhances the approved transportation network.
- H. Creation of a variety of housing compatible with surrounding neighborhoods to provide a greater choice of types of environment and living units.
- I. Revitalization of established commercial centers of integrated design to order to encourage the rehabilitation of such centers in order to meet current market preferences.
- J. Provision in attractive and appropriate locations for business and manufacturing uses in well-designed buildings and provision of opportunities for employment closer to residence with a reduction in travel time from home to work.
- K. Consistency with the Memphis 3.0 General Plan.

General Provisions

Staff *agrees* the general provisions as set out in Section 4.10.3 of the Unified Development Code are or will be met.

4.10.3 General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations of the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in this Chapter.

A. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.

- B. An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.
- C. The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access way shall be landscaped or otherwise improved except where natural features are such as to justify preservation.
- D. Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.
- E. Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
- F. Lots of record are created with the recording of a planned development final plan.

Residential Criteria

Staff *agrees* the planned residential development standards as set out in Section 4.10.4 of the Unified Development Code are or will be met by the proposal, as conditioned.

4.10.4 Planned Residential Developments

In addition to the standards and criteria set forth in Section 4.10.3, planned residential developments shall comply with the standards and criteria set forth below:

A. Formal Open Space

A minimum of 0.6% of the total land area of a planned residential development of 15 acres or more shall be subject to the formal open space requirements of Section 6.2.3. No open area may be delineated or accepted as formal open space under the provisions of this Chapter unless it meets the standards of Chapter 6.2, Open Space.

B. Accessibility of Site

All proposed streets, alleys and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development. The location of the entrance points of the streets, alleys and driveways upon existing public roadways shall be subject to the approval of the City or County Division of Public Works.

C. Off-Street Parking

Off-street parking shall be conveniently accessible to all dwelling units and other uses. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through use of trees, shrubs and/or hedges and screening walls.

D. Pedestrian Circulation

The pedestrian circulation system and its related walkways shall be separated, whenever feasible, from the vehicular street system in order to provide an appropriate degree of separation of pedestrian and vehicular movement.

E. Privacy

The planned residential development shall provide reasonable visual and acoustical privacy for dwelling units within and adjacent to the planned residential development. Protection and enhancement of property and the privacy of its occupants may be provided by the screening of objectionable views or uses and reduction of noise through the use of fences, insulation, natural foliage, berms and landscaped barriers. High-rise buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining low rise buildings.

F. Distance Requirements

Where minimum distance requirements are provided between single family residential zoning districts and certain stipulated uses in this Code, the single-family residential areas of planned developments shall be considered zoned residential.

Approval Criteria

Staff *agrees* the approval criteria as set out in Section 9.6.9 of the Unified Development Code are or will be met by the proposal, as conditioned.

9.6.9 Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

- A. The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.
- B. The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.
- C. The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.
- D. The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.
- E. The project complies with all additional standards imposed on it by any particular provisions authorizing such use.
- F. The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.
- G. The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to insure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.
- H. Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.

Site Description

This two-parcel site is in Meachem's Cooper and Central Avenue Subdivision, consisting of Lots 60, 61, 62, 63, 65, and 66; parts of Lots 64 and 67; a vacated part of the Union Pacific railroad (formerly known as the Union Railway, a subsidiary of the Missouri Pacific Railroad); and a vacated part of an alley. It has 162 linear feet of frontage on Elzey Avenue and 130 linear feet of frontage on Tanglewood Street, both local streets. According to the Shelby County Assessor of Property, the site contains one structure, an 18,870-square foot warehouse built in 1957. Both frontages have overhead utilities and nonconforming curb cuts, and lack streetscape plates.

Site Zoning History

In 1946, the Memphis Board of Adjustment granted a variance to the Memphis Metal Manufacturing Company, Inc., to permit an attic fan manufacturing plant within a residential zoning district. In 2018, the Memphis City Council designated this land as part of the Cooper-Young Historic District.

Conclusions

795 Tanglewood, LLC, has requested a special use permit for a planned residential development to reduce minimum lot size and minimum setbacks. The applicant intends to pave a new street and alley, and construct approximately 11 homes.

Staff has collaborated with both the developer and the Cooper-Young Community Association to craft a plan that provides greater choice in local housing types while remaining consistent with the context of the neighborhood.

The proposed configuration, as conditioned, allows for an outward-facing development that integrates into the existing neighborhood street network and increases connectivity.

RECOMMENDATION

Staff recommends *approval* with the following conditions:

- XI. Permitted Uses
 - C. Uses shall be permitted as if zoned Residential -6, with the following exception:
 - 3. No short-term rental housing shall be permitted.
- XII. Building Envelope Standards
 - S. Reverse frontage lots shall not be permitted, and no street shall be constructed that would cause an adjacent lot to have a reverse frontage.
 - T. Every lot shall have rear vehicular access only. The Zoning Administrator may grant an exception for a corner lot to have side street vehicular access.
 - U. Building Height
 - 1. The maximum height shall be 30 feet.
 - 2. The maximum number of stories shall be 1.5.
 - V. There shall be no minimum lot area.
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 - 1. The minimum lot width shall be 40 feet for lots with Elzey frontage.
 - 2. Otherwise, the minimum lot width shall be 25 feet.
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 - 1. The minimum setbacks shall be:
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 - AA. The finished ground floor shall be raised a minimum of 18 inches above the top of grade.
- XIII. General Development Standards
 - E. Streetscaping and Landscaping
 - 1. A modified S-13, S-14, or S-15 streetscape plate shall be installed along the south of the east-west segment and the east of the north-south segment of the proposed street, as well as along the site's Elzey and Tanglewood frontages, subject to approval of the Zoning Administrator.

- 2. The streetscape plates may be dedicated as right-of-way or overlaid with perpetual and general public access easements.
- 3. A landscape area with a minimum width of 4.5 feet shall be installed along the north of the east-west segment and the west of the north-south segment of the proposed street.
- 4. The landscaping shall emphasize native plants.
- 5. Sidewalks may be required to be repaired, as well as unused curb cuts closed with the appropriate streetscape plate.
- 6. Fencing and Walls
 - a. Fencing and walls shall be subject to the Midtown District fencing standards.
 - b. Any existing chain link shall be removed.
- F. If any common open space is provided, a homeowners association shall be required to own and maintain said land.
- XIV. Infrastructure and Public Improvements
 - K. No dead-end alleys or streets shall be permitted.
 - L. A street shall be improved and dedicated along the western and northern perimeters of the site.
 - 1. The street shall have a maximum width of 28 feet, as measured from curb back to curb back. This width is meant to provide for two parking lanes and one shared travel lane, and may be reduced if parking is eliminated, subject to approval of the Zoning Administrator.
 - M. An alley shall be improved and dedicated that provides rear vehicular access to all proposed lots.
 - 1. The alley shall have a 14-foot travel lane and a minimum right-of-way of 22 feet.
 - N. The developer may choose not to dedicate the street and/or alley, provided the following standards are met:
 - 1. The street and/or alley shall be overlaid with a perpetual and general public access easement. The alley shall be accessible to all adjacent Elzey lots.
 - 2. No gates shall be permitted.
 - 3. All City standards for streets and alleys shall be met. A valley gutter shall not satisfy the street curb requirement.
 - O. Overhead utility poles shall not be permitted, unless otherwise approved by both Memphis Light, Gas, and Water, and the Zoning Administrator.

XV. Miscellaneous

- G. Where the outline plan conditions and the Unified Development Code conflict, the former shall apply. Otherwise, all standards of the Unified Development Code shall apply.
- H. All construction shall be subject to the approval of the Landmarks Commission in accordance with the Cooper-Young Historic District design guidelines.
- I. If the railroad right-of-way to the north of the site is acquired by the developer, said acquired land may be incorporated into this planned development, subject to approval of the Zoning Administrator.
 - 1. In this event, the proposed street should be shifted to the north. The site should be configured in such a way that the proposed street coheres with Saulsbury.

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City Engineer:

1. Standard Subdivision Contract or Street Cut Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

- 2. City sanitary sewers are available to serve this development.
- 3. All sewer connections must be designed and installed by the developer. This service is no longer offered by the Public Works Division.

Roads:

- 4. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
- 5. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
- 6. Improve Tanglewood in accordance with the UDC.

Traffic Control Provisions:

- 7. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5 foot wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5 foot clear pedestrian path, an exception may be considered.
- 8. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.
- 9. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

Private Drives:

- 10. Identify the drives as "Private".
- 11. All private drives/rear service drives shall be constructed to meet pavement requirements of the Unified

- Development Code, applicable City Standards, and provide a minimum width of twenty-two feet (22')/eighteen (18) feet.
- 12. Easements for sanitary sewers, drainage and other required services as indicated on the final recorded plat may be located and utilized within private drives. The City shall not be responsible for street repairs within the private drives, even though the pavement and base may have to be removed to work on sewers or drainage. The responsibility of repairing the private drives shall be that of the owners and/or Property Owners' Association.

Curb Cuts/Access:

- 13. The City Engineer shall approve the design, number and location of curb cuts. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
- 14. No access allowed from individual lots to either Elzey or Tanglewood. All access to individual lots shall be via private drives.

Drainage:

- 15. The site is located with the Arlington Bayou (a "sensitive" drainage basin). A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
- 16. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis/Shelby County Storm Water Management Manual.
- 17. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
- 18. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
- 19. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

- 20. Adequate queuing spaces in accordance with the current ordinance shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader.
- 21. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.
- 22. Adequate maneuvering area necessary for Fire Department vehicles to navigate the intersection of the two private streets shall be provided. The proposed layout does not meet these requirements.

- 23. Install two Red Diamond Object Markers on Emergency Gate for the westbound direction on Elzey.
- 24. Provide a design which allows for a turn-around at the dead end of Elzey that meets minimum requirements

City Fire Division:

- All design and construction shall comply with the 2015 edition of the International Fire Code (as locally amended) and referenced standards.
- Fire apparatus access shall comply with section 503. Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).
- Fire protection water supplies (including fire hydrants) shall comply with section 507.
- Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternate methods of protection are provided.
- A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

Memphis Light, Gas and Water:

- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities.
- **No permanent structures, development or improvements** are allowed within any utility easements, without prior MLGW written approval.
- It is the responsibility of the owner/applicant to comply with the National Electric Safety Code (NESC) and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- Underground Utility separation and clearance: The subject property is encumbered by existing utilities which may include overhead and underground facilities. It is the responsibility of the owner/applicant to maintain a minimum 3-foot (3') separation between any existing underground service lines or utilities and any proposed permanent structure or facility. This separation is necessary to provide sufficient space for any excavations to perform service, maintenance or replacement of existing utilities.
- It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- It is the responsibility of the owner/applicant to contact TN-1-CALL @ 1.800.351.1111, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance

- Landscape and Screening Regulations.
- **Street Trees are prohibited**, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW utility easement without prior MLGW approval.
- Street Names: It is the responsibility of the owner/applicant to contact MLGW-Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online Street Name Search: http://www.mlgw.com/builders/landandmapping
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the impact on or conflict with any existing utilities, and the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
 - o All residential developers must contact MLGW Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
 - o All commercial developers must contact MLGW Builder Services line at 729-8630 to initiate the utility application process.
- It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

Office of Comprehensive Planning:

Based on the Future Land Use Planning Map, the proposal <u>IS CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 - 122:

1. FUTURE LAND USE PLANNING MAP



The red box indicates the application sites on the Future Land Use Map.

2. Land use description & applicability:

The site is designated as Anchor Neighborhood – Primarily Single-Unit (AN-S). AN-S areas are characterized by house scale buildings between one and three stories high. A mixture of detached and semi-detached homes fills this residential designation around the anchor location, mostly consisting of single-family homes or duplexes. These neighborhoods are located within a 10-minute walk of the anchor, making residential more accessible for pedestrians to anchor amenities. See graphic portrayal to the right.



"AN-S" Goals/Objectives:

Preservation and stabilization of neighborhoods, focusing investment toward areas that support plan goals and objectives, locating housing near services and jobs, building up not out.

"AN-S" Form & Location Characteristics:

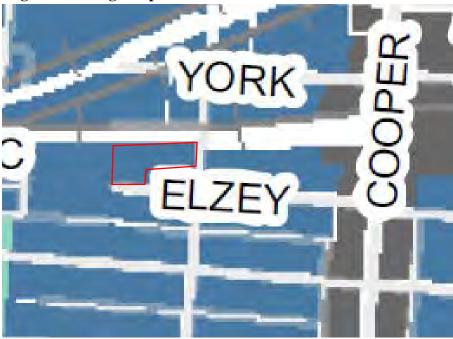
NURTURE - Primarily detached, single-family residences. Attached single-family residences permitted on parcels within 100 feet of an anchor. Height: 1-2 stories. Scale: house-scale.

The applicant is seeking Planned Development approval for a 12-lot residential development. The request meets the criteria because single-family homes are compatible in primarily single-unit anchor neighborhoods.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential and Vacant land. The subject site is surrounded by the following zoning districts: R-6(H), RU-1(H), and EMP. This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.

4. Degree of Change map



The red box indicates the application site. The Degree of Change is Sustain, ¼ mile.

5. Degree of Change Descriptions

Sustain areas rely on limited public support and private resources to maintain the existing pattern of a place.

Actions for Sustain anchors and anchor neighborhoods are meant to:

- Support existing market conditions
- Support maintenance of public realm and infrastructure
- Facilitate private investment and development that is contextually compatible
- Address building form with infill development

Ways to Sustain:

- Promote infill that is contextually compatible
- Maintain most existing zoning standards (not in conflict with future land use)
- Change street cross-sections to promote multi-modal transportation options
- Enhance connectivity to transit network
- Apply/Uphold historic overlay district overlays

- Address regulatory barriers to quality development
- Reduce number of curb cuts to improve pedestrian and cyclist safety (access management)
- Encourage "curb to door" pedestrian and ADA accommodations
- Construct new streets or pathways to increase connectivity within large sites
- Improve public access points (covered bus stops, benches)
- Improve public services (trash cleanup and collection)
- Control scale and frequency of signage
- Upgrade infrastructure to improve storm water runoff
- Improve existing parks and civic buildings and spaces
- Allow increased density and building height
- Allow a broader mix of uses

Based on the information provided, the proposal <u>IS CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Bradyn Carson, Office of Comprehensive Planning

City Real Estate:

County Health Department:

Shelby County Schools:

Construction Code Enforcement:

Office of Sustainability and Resilience:

No comments received.

No comments received.

No comments received.

APPLICATION



Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR PLANNED DEVELOPMENT APPROVAL (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

	m Fire ripe on	DOINT		
	PLEASE TYPE OR	PRINT		
Name of Development:Tanglewoo	d Place Planned Development			
Property Owner of Record: WO SF	RLLC	Phone #:	901-509-7361	
Mailing Address: 5400 Poptar Ave. Sur	City/State: Memphis, TN	Zip 38119		
Property Owner E-Mail Address: Ca	meron@weoffr.com			
Applicant: Same as owner	Phone #			
Mailing Address:	City/State:	Zip		
Applicant E- Mail Address:				
Representative: Tim McCaskill		Phone #: 901-382-2577		
Mailing Address: 7691 Stage Hills Blvd.	City/State: Bartlett. TN	Zip 38133		
Representative E-Mail Address: _tim	@mccaskilline.com			
Engineer/Surveyor: McCaskill & Associa	eles, Inc.	Phone # 901-382-2577		
Mailing Address: 7891 Stage Hills Blvd.	City/State: Bartlett, TN	Zip 38133		
Engineer/Surveyor E-Mail Address:	tim@mccaskflinc.com			
Street Address Location; 7891 Stage H	fills Blvd.Suite 112			
Distance to nearest intersecting street				
Area in Acres:	Parcel 1	Parcel 2 P	rel 2 Parcel 3	
Existing Zoning:	R-6(H)			
Existing Use of Property	Vacant buildings Single family residential			
Requested Use of Property	Single family residential			
Medical Overlay District: Per Secti Overlay District.	on 8.2.2D of the UDC, no	Planned Developments are	e pennitted in th	
Inincorporated Areas: For resident following information:	ntial projects in unincorpo	orated Shelby County, ple	ease provide th	
Number of Residential Units:	Bedrooms:			
Expected Appraised Value pe	or Total Project;			
The state of the s				

Amendment(s): Is the applicant applying for an amendment to ar Yes	n existing Planned Development? No_X
The following modifications to existing planned developments are permitted uses in a planned development, except in situations who be changed to a use of a lower classification; 2) a modification to conversion of public streets. See Section 9.6.11E(1) of the UDC	ere a use of a higher classification is proposed to conditions that phases the uses, and 3) a

4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

 The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.

This project will be an improvement to the entire neighborhood.

It will not injure or damage the use, value and enjoyment of surrounding property or hinder or prevent development of surrounding property.

 An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.

Utilities and sanitary sewer are existing.

 The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)

This development will be compatible with surrounding land uses.

 Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.

Modifications and amenities are not inconsistent with the public interest.

 Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.

Yes

· Lots of records are created with the recording of a planned development final plan.

Yes

2

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.
Pre-Application Conference held on: withCHIF SALIBA
NEIGHBORHOOD MEETING - At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2).
Neighborhood Meeting Requirement Met: Yes or Not Yes (Circle one) (If yes, documentation must be included with application materials)
SIGN POSTING - A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.
I (we) hereby make application for the Planned Development described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf. 8/28/2020
Water State Control of the Control o
Property Owner of Record Date Applicant Date

GUIDE FOR SUBMITTING PLANNED DEVELOPMENT APPLICATION (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

- THE APPLICATION Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
 - This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
 - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".
- B. LETTER OF INTENT The letter shall include the following:
 - a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
 - b) A list of any professional consultants associated with the proposed development
 - c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed

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LETTER OF INTENT



7891 Stage Hills Blvd, Suite 112 Bartlett, TN 38133 www.mccaskillinc.com (901)382-2577 (901)385-1813 Fax

Letter of Intent – 795 Tanglewood August 31, 2020

The purpose of this application is to obtain approval of a 12 lot Planned Development for single family homes. The site is 1.17 acres located at the Northwest corner of Tanglewood Avenue and Elzey Street. It is bordered by railroad ROW on the North and single family residential on the South. A Planned Development (City Cottages-Cooper Young) has been recorded to the East and the Cooper Station P.D. to the West.

This plan has 12 lots ranging from 2,140 sq. ft. to 3,158 sq. ft.. The lots will have rear loaded garages accessed from 22' wide alleys on the North and West sides of the property. It will have two private streets with one entering from Tanglewood and the other from Elzey.

Consultants:

Tim McCaskill McCaskill and Associates, Inc. 7891 Stage Hills Blvd. Suite 112 Bartlett, Tennessee 38133 901-382-2577

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County State of Tennessee
, being duly sworn, depose and say that at 7:25 and/pm on the
2nd day of November , 200 20, I posted a Public Notice Sign(s) pertaining to Case
No. PD 20-13 at 795 Tanglewood St. (address)
, providing notice of a Public Hearing before the X Land Use Control Board, X Memphis City
Council,Shelby County Board of Commissioners for consideration of a proposed Land Use
Action (x Planned Development, Special Use Permit, Use Variance
coning District Map Amendment), a photograph of said sign(s) being attached hereon and a copy of
he sign purchase receipt or rental contract attached hereto.
1. Muchy 11/2/200
11/2/2
Owner, Applicant or Representative Date
Subscribed and sworn to before me this 2 day of NOVEMBER, 2000.
Votary Public
Ay commission expires: 15, 2022
3
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LETTERS RECEIVED

Eight letters of opposition were received at the time of completion of this report.

Mr. Davis,

The required neighborhood community meeting for the Tanglewood Place PD was held on Thursday, October 22. The meeting was conducted by Tim McCaskill.

I specifically asked him if he had updated his application to include the proposed height, dimensions and arrangement of buildings on the property? He stated he was unaware of the requirement. He agreed to email the information to anyone on the zoom meeting who provided him an email address. As of today, I have not yet seen this information.

Numerous people on the call expressed concerns about the density of the homes. The project team was asked if they would consider leaving some green space by reducing the number of homes. The team said they did not want to do this because the lots were a similar size to many in Cooper Young. However, the density of Tanglewood Place PD is more dense than the Cooper Station PD currently under development.

Finally, the application implies that the existing sanitary sewers are adequate for the proposed development. Because the summitted plan has 2 new streets and 2 new alleys Mr. McCaskill was questioned about this statement. Mr. McCaskill stated they would have to build out their own sanitary sewer system to connect to the existing city system. It seems to me (a concerned homeowner) the density issue again raises some questions about capacity. The existing sanitary sewer infrastructure may or my not be capable of supporting twelve new homes.

For these reason, I do not support PD 20-13.

Frank Guarino 1942 Elzey Ave. 901-305-6448 figuarino2003@yahoo.com Hello,

I'm a 9-year resident of Cooper-Young and have a few thoughts on the proposed "Tanglewood Place" development.

This is an exciting development with the potential to be a real asset to our neighborhood community. But it has to be done right.

I'm particularly concerned about the idea of private drives. This is an open and accessible community with neighborhood residents walking dogs, jogging, and riding bikes with our children. A private drive serves to limit this community access and block off the residents from the rest of the neighborhood.

There are also issues with lot sizes, setbacks, and green space.

As for architectural integration into the neighborhood, I am not someone who is locked into making everything mandatorily historically appropriate but I do think it needs to be interesting and add to the neighborhood if it is going to veer out of the traditional Cooper-Young architecture. Too many of these developments are cookie-cutter, boring planned developments that could be anywhere—Collierville, Bartlett, or Southaven. We already have a few of these developments in Midtown (at least one in C-Y) and they certainly take away from the historic character of the neighborhood instead of add to it.

I wasn't able to make the community meeting but I hope to be further involved in the process, as if done right this could be a great addition to the neighborhood and if done wrong it could be a sequestered "minineighborhood" that doesn't work with the rest of our community.

Many thanks,

Stef Allan

415.300.6209 | stef@stefallan.com

My name is Patrick Durkin and I am a resident of the Cooper-Young neighborhood. I am writing in opposition to the "Tanglewood Place" Planned Development.

Currently I am against the number of units proposed at this time. I believe by reducing the number of houses it will allow greater flexibility to design homes that are more in tune with the surrounding neighborhood and would be more typical of a Cooper-Young house.

I am also opposed to the idea of private drives, especially gated ones. The recent PD "City Cottages" across the street from this had their private roads denied and I feel it should be the same here with this application. I also want to see sidewalks put in and to allow for greenspaces to be added. This would allow all residents of the neighborhood to be able to freely walk this section and connect with the rest of the neighborhood. In the neighborhood meeting the developer said that they would be installing valley curbs and gutters to maximize their space but these are not appropriate for Cooper-Young and are mostly found in more suburban settings.

I strongly feel that a condition needs to be set on height for these new homes and should be set at no greater than 1.5 stories to match the existing street block. The "City Cottage" PD is another prime example on why this condition must be set. During that PD they promised that all eight homes would be one story tall to match the neighborhood. They are now building all eight lots as massive two story houses that disrupts the rhythm of the street. All because there was never a condition set on height and the whole neighborhood was therefore misled.

Finally I ask that these homes do whatever is necessary to conform to our historic neighborhood and not take away the charm by making these not esthetically fit.

Thank you,

Patrick Durkin

935 Bruce St.

On behalf of Memphis Heritage and the historic neighborhoods we work to support, we are voicing our opposition to the planned development at Tanglewood Place.

This development is not compatible with surrounding land uses, specifically the single-family residential areas near this planned development. The standard lot size in Cooper-Young is 6,000 sq. ft., and these lots range from about 2,000-3,000 sq. ft. Twelve homes on a 1.17 acre site is just too much.

Many neighbors do not agree with the applicant's assessment that "this project will be an improvement to the entire neighborhood." There are concerns about the two private drives with no sidewalks or greenspaces, along with the planned home prices that in the \$379,000 range. The developer seems unwilling to consider building one-story homes, which is typical in this area.

It is difficult to provide more comment, as elevations have yet to be made available.

We urge the Board to reject this application.

Best regards,

Holly

Holly Jansen Fulkerson Executive Director Memphis Heritage, Inc. 2282 Madison Avenue Memphis, TN 38104 901-272-2727

Brett,

I am writing in opposition to the Tanglewood Place project as presented. I think the site plan needs revision to include sidewalks as customary with all areas of the city and to revise the size homes being placed on the lots. No elevations or basic plans have been presented to the public. I also think the elevations should be submitted before approving this project.

Please reject this project as submitted.

Thank you, Christina Ross



Cooper-Young Community Association 2298 Young Ave Memphis, TN 38104 901-272-2922 info@cooperyoung.org

November 5, 2020

TO: M/SC Land Use Control Board

RE: Case Number PD 20-13 - 12-lot residential development at 795 Tanglewood

Land Use Control Board Members:

After consideration of the submitted application, the Cooper-Young Community Association Development Committee respectfully requests that the board vote to REJECT the application as the proposed lots require reduced setbacks, lots sizes, and lot widths from that which is typical in the Cooper-Young neighborhood.

We are not against new construction on this property, but strongly believe zoning should be enforced and the new construction should be appropriate for the neighborhood and contextually fit within our historic district. The application as proposed lacks detailed information and as such we respectfully request the following conditions be attached to the application in order to minimize adverse effects on the neighborhood:

- The planned development shall not be gated
- Any new streets within the planned development shall comply with the UDC and include sidewalks and landscaping, such as trees
- Each house within the development shall be reviewed by the M/SC Landmarks Commission to determine appropriateness. Further, each house should be treated as if it fronted Elzey in order to determine its design appropriateness
- The height of each house shall be limited to 1.5 stories
- Each house shall comply with UDC Contextual Infill Standards, such as requiring a porch at least 6' in depth, requiring a raised foundation of at least 18", and front facing garages shall not be allowed
- Short-terms rentals shall not be allowed

We believe the above conditions greatly reduce negative impact to our historic neighborhood and assist in contextualizing the new construction. By disallowing a gated community and requiring sidewalks and greenspaces the planned development would contribute to our well-established tree canopy and improve walkability in the area while connecting with our already walkable streets; by not including sidewalks and landscaping there is a negative impact to the character of the neighborhood. Review by the Landmarks Commission in regard to design, as it relates to the Elzey street-block, would ensure the new construction would fit contextually within our historic streetscape and contribute to Cooper-Young's historic identity. A building height maximum would prevent the new construction from towering over the current homes on Elzey, which would disrupt the value and enjoyment on the current adjacent properties and assist the new construction with fitting in contextually to our existing community. Compliance with the UDC Contextual Infill Standards would also significantly help in contextualizing the new construction. Disallowing short-term rentals would increase buy-in to the community by the future residents.



Cooper-Young Community Association 2298 Young Ave Memphis, TN 38104 901-272-2922 info@cooperyoung.org

Further, we strongly believe that reducing the number of lots would have a significant positive impact on the planned development as it would allow for larger lots and greater design possibility and sellability. It is also of note the applicant is planning to use valley curbs and gutters which are inappropriate for not only Cooper-Young but Midtown as a whole; curbs and gutters should be consistent with those found in the neighborhood.

Respectfully,

Cooper-Young Community Association Development Committee

Olivia Wall, Development Committee Chair and CYCA Secretary

Hi Mr. Davis,

As a concerned Memphian I am writing in regards to the Tanglewood Place planned development. I feel the information about this development is lacking, and therefore should not be approved at this time. Are there no sidewalks? Greenspaces? Where are the elevations? I'd like to see trees, porches, and homes that contextually fit with the historic homes in this area. Thank you for your consideration in this matter and providing the community with more information and time for discussion of this project.

Sincerely,

Sunny Franklin

--

Sunny Franklin 901.359.9182 (c)

I'm in favor for what is in the best interest of Cooper-Young. It would seem to me that building new housing units in Cooper-Young that fit in with the size and architectural style of the existing houses is in the best interest of the neighborhood. I dont see how making the lots half the size of most Cooper-Young lots is better for Cooper-Young than building on larger lots.

John Curtis Owner of 2004 Evelyn Ave

CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

	COU	UNCIL AG	ENDA CHEC	K OFF SHEET		
ONE ORIGINAL ONLY STAPLED TO DOCUMENTS	Planning &		COMMITTEE:	Planning & Development DIVISION 01/05/2020 DATE 01/05/2020 DATE		
TTEM (CHECK ONE) ORDINANCE X RESOLUTION OTHER:	CONDEMNATIONS GRANT ACCEPTANCE / AMENDMENT GRANT APPLICATION REQUEST FOR PUBLIC HEARING					
ITEM DESCRIPTION:	A resolution approving a mixed use (retail, office, multifamily, parking garage, etc.) planned development					
CASE NUMBER:	PD 20-15					
DEVELOPMENT:	Central Yards Planned Development					
LOCATION:	Generally along York Street south of Central Avenue, west of Cooper Street, and east of Tanglewood Street					
COUNCIL DISTRICTS:	District 4 and Super District 8 – Positions 1, 2, and 3					
OWNER/APPLICANT:	Cooper York Development Company, Inc., RE&D Investments, LLC, and Scott Industries, Inc. / RE&D Investments, LLC					
REPRESENTATIVE:	Brittenum Law – Dedrick Brittenum, Jr.					
EXISTING ZONING:	Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and Residential Urban – 1 Historic (RU-1(H))					
REQUEST:	Mixed use (retail, office, multifamily, parking garage, etc.) planned development					
AREA:	+/-5.52 acres					
RECOMMENDATION:	The Office of Planning and Development recommended <i>Approval with conditions</i> The Land Use Control Board recommended <i>Approval with conditions</i>					
RECOMMENDED COUNC	CIL ACTION: Pul	<mark>blic Hearin</mark>	<mark>g Not Required</mark>			
PRIOR ACTION ON ITEM: (1) 12/10/2020 (1) Land Use Control Board FUNDING: (2) S SOURCE AND AMOUNT OF FUNDS		APPROVAL - (1) APPROVED (2) DENIED DATE ORGANIZATION - (1) BOARD / COMMISSION (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE				
		REQUIRES CITY EXPENDITURE - (1) YES (2) NO AMOUNT OF EXPENDITURE REVENUE TO BE RECEIVED				
\$			TING BUDGET OJECT #	•		
5			AL/STATE/OTH	HER		
ADMINISTRATIVE APPRO	OVAL:		<u>DATE</u>	POSITION PRINCIPAL PLANNER DEPUTY ADMINISTRATOR ADMINISTRATOR		
				DIRECTOR (JOINT APPROVAL)		
				COMPTROLLER		
				FINANCE DIRECTOR		
				CITY ATTORNEY		
				CHIEF ADMINISTRATIVE OFFICER		
'				COMMITTEE CHAIRMAN		



Memphis City Council Summary Sheet

PD 20-15 - Central Yards Planned Development

Resolution requesting a Mixed use (retail, office, multifamily, parking garage, etc.) planned development located generally along York Street south of Central Avenue, west of Cooper Street, and east of Tanglewood Street:

- This item is a resolution with conditions for a planned development to allow the above; and
- The Division of Planning & Development at the request of the Owner(s): Cooper York Development Company, Inc., RE&D Investments, LLC, and Scott Industries, Inc.; Applicant(s): RE&D Investments, LLC; and Representative(s): Brittenum Law
 Dedrick Brittenum, Jr.; and
- This resolution, if approved with conditions, will supersede the existing zoning for this property; and
- The item may require future public improvement contracts.

AGENDA ITEM: 8

CASE NUMBER: PD 20-15 L.U.C.B. MEETING: December 10, 2020

DEVELOPMENT: Central Yards Planned Development

LOCATION: Generally along York Street south of Central Avenue, west of Cooper Street, and

east of Tanglewood Street

COUNCIL DISTRICT: District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Cooper York Development Company, Inc., RE&D Investments, LLC, and Scott

Industries, Inc. / RE&D Investments, LLC

REPRESENTATIVE: Brittenum Law – Dedrick Brittenum, Jr.

REQUEST: Mixed use (retail, office, multifamily, parking garage, etc.) planned development

AREA: +/-5.52 acres

EXISTING ZONING: Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and Residential Urban –

1 Historic (RU-1(H))

CONCLUSIONS

1. The applicant is requesting mixed use (retail, office, multifamily, parking garage, etc.) planned development.

- 2. The proposed high-quality mixed use development would be a significant improvement for and investment in the community and would be a showcase of economic development in this anchor neighborhood.
- 3. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
- 4. The location and arrangement of the structures, parking areas, walks, lighting and other service facilities are compatible with the surrounding land uses.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 27-30 of this report.

RECOMMENDATION

Approval with conditions

Staff Writer: Jeffrey Penzes E-mail: jeffrey.penzes@memphistn.qov

GENERAL INFORMATION

Street Frontage: Central Avenue +/-281.15 linear feet

South Cooper Street +/-163.50 linear feet
York Avenue (north side) +/-784.28 linear feet
York Avenue (south side) +/-448.26 linear feet
Tanglewood Street +/-193.08 linear feet

Zoning Atlas Page: 2035

Parcel ID: 031136 00008, 031136 00009, 031136 00010, 031136 00010Z, 031136 00005C,

031136 00004, 031136 00011, 031136 00012, 031136 00001, 031135 00003C,

031133 00004C, 031133 00003, 031133 00002, and 031133 00001

Existing Zoning: Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and Residential Urban –

1 Historic (RU-1(H))

NEIGHBORHOOD MEETING

The meeting was held at 1:00 PM on Saturday, November 21, 2020, at 2101 Central Avenue.

PUBLIC NOTICE

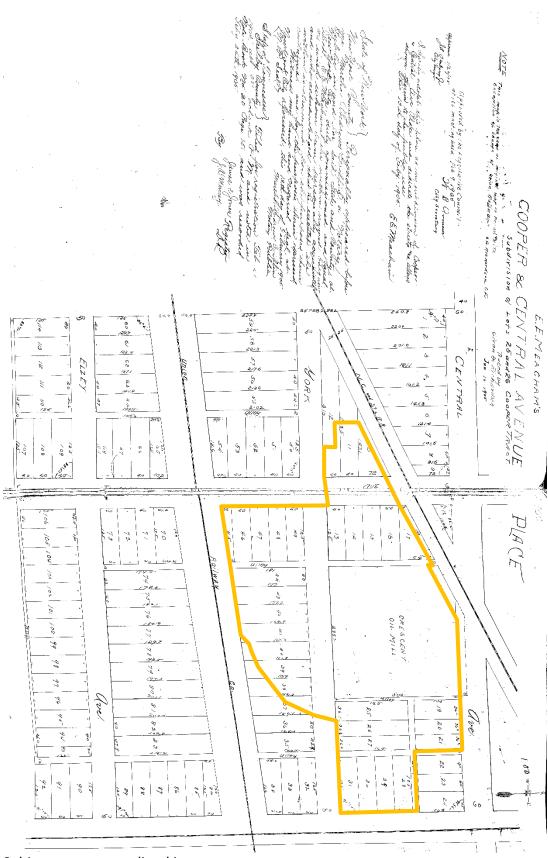
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 134 notices were mailed on November 24, 2020, and a total of 6 signs were posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle, Midtown neighborhood

COOPER & CENTRAL AVENUE PLACE SUBDIVISION (1905)



Subject property outlined in orange

VICINITY MAP



Subject property highlighted in yellow

ZONING MAP



Subject property highlighted in orange

Existing Zoning: Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and Residential Urban – 1

Historic (RU-1(H))

Surrounding Zoning

North: Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and Residential Single-Family –

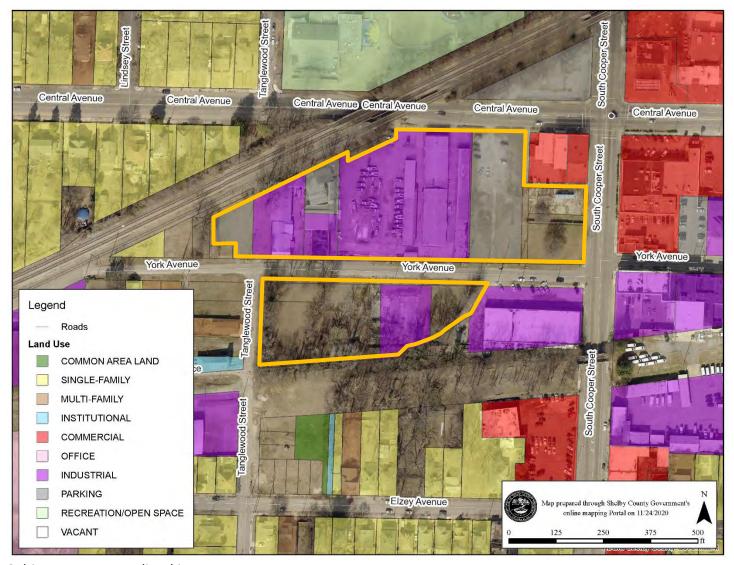
6 Historic (R-6(H))

East: Employment (EMP) and Commercial Mixed Use – 1 (CMU-1)

South: Employment (EMP)

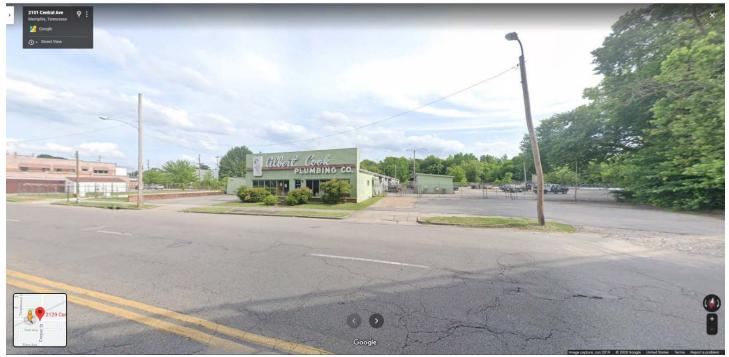
West: Residential Urban – 1 Historic (RU-1(H))

LAND USE MAP



Subject property outlined in orange

SITE PHOTOS



View of subject property from Central Avenue looking southeast



View of subject property from Cooper Street looking west



View of subject property on the north side of York Avenue looking northeast



View of subject property on the north side of York Avenue looking northwest

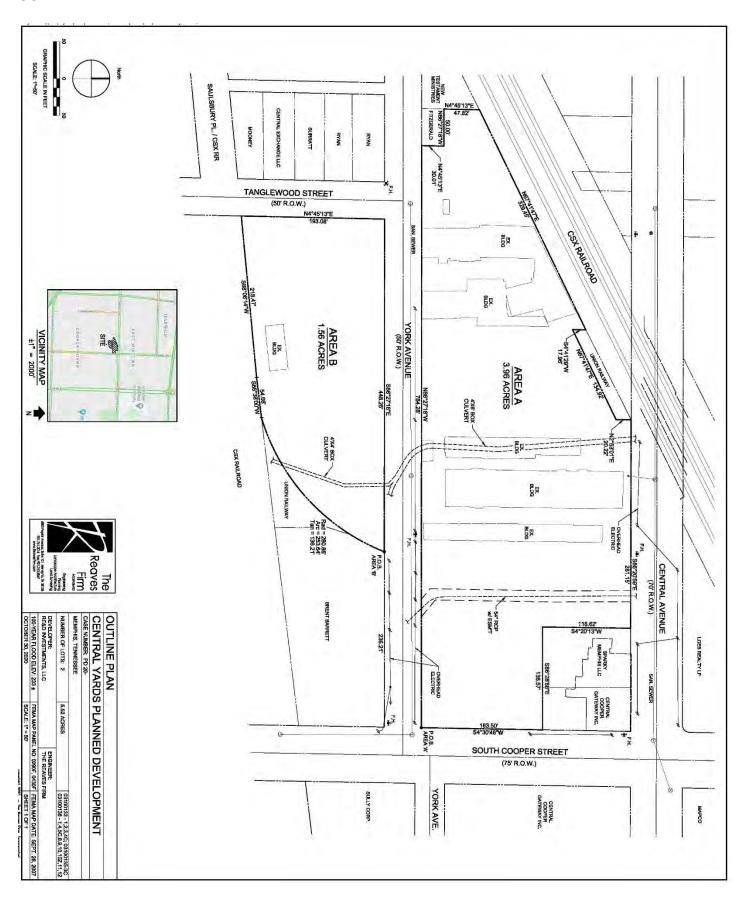


View of subject property on the south side of York Avenue looking southeast



View of subject property on the south side of York Avenue looking southwest

OUTLINE PLAN



1ST FLOOR - PARKING + RETAIL/FLEX 2-4 FLOORS - PARKING 5-7 FLOORS - UNITS

AF - 7 FLOORS

1ST FLOOR - RETAIL/FLEX 2-4 FLOORS - UNITS AE - 4 FLOORS 1ST FLOOR - RETAIL/FLEX 2ND FLOOR - RETAIL + UNITS 3-5 FLOORS - UNITS

AD - 5 FLOORS

1ST FLOOR - RETAIL/FLEX 2-5 FLOORS - UNITS AC - 5 FLOORS

₽ AB AG COOPER STREET

1ST FLOOR - PARKING + RETAIL/FLEX 2ND FLOOR - PARKING + UNITS 3-6 FLOORS - UNITS

AB - 6 FLOORS

1ST FLOOR - RETAIL/FLEX 2-4 FLOORS - UNITS AA - 4 FLOORS

PARKING GARAGE OUTLINE

ROOFTOP AMENITY

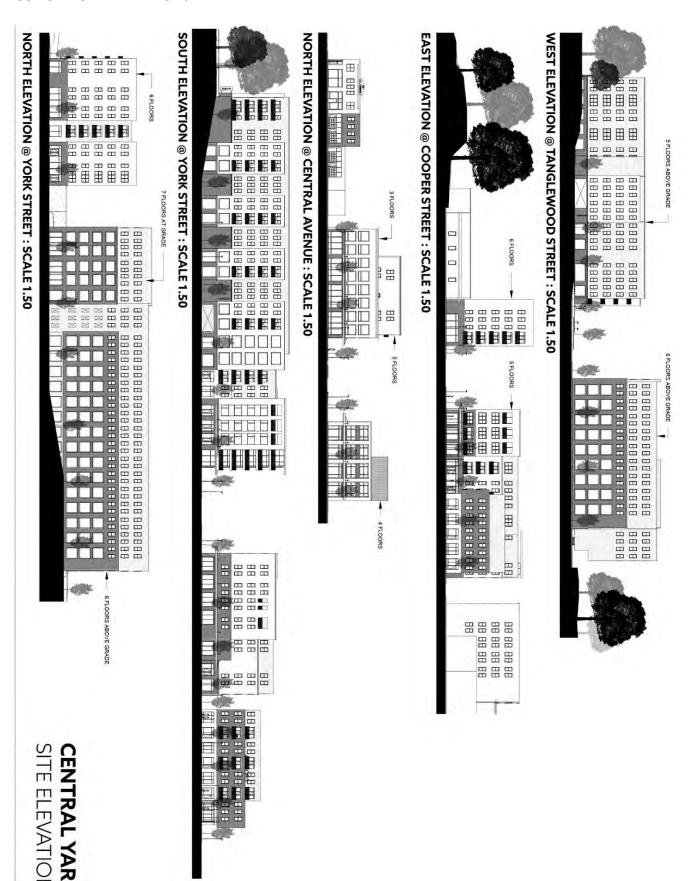
AB

BUILDING NAME

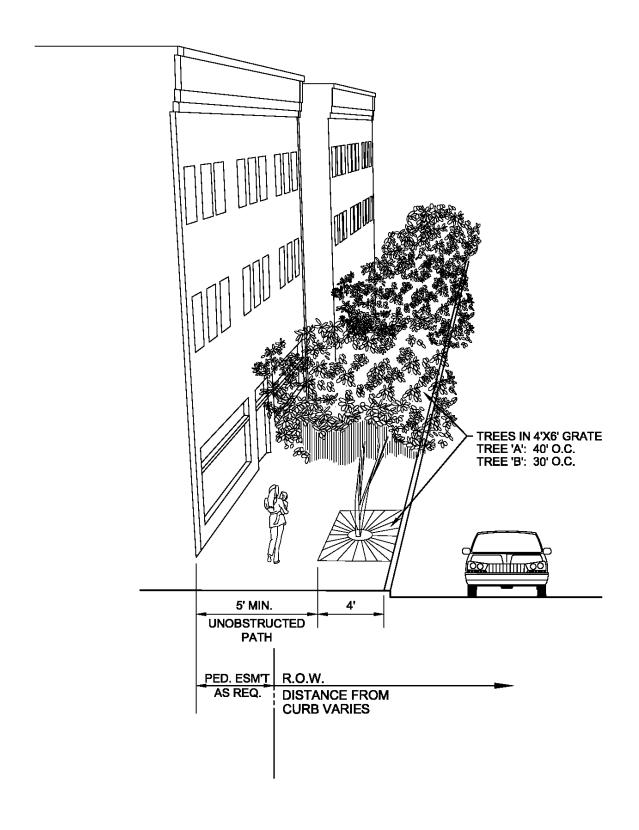
GREEN SPACE

POOL

CONCEPTUAL ELEVATIONS



CONCEPTUAL STREETSCAPE PLATE



CONCEPTUAL RENDERINGS







STAFF ANALYSIS

Request

The application, planned development general provisions, and letter of intent have been added to this report.

The request is for a mixed use (retail, office, multifamily, parking garage, etc.) planned development

Applicability

Staff agrees the applicability standards and criteria as set out in Section 4.10.2 of the Unified Development Code are or will be met.

4.10.2 Applicability

The governing bodies may, upon proper application, grant a special use permit for a planned development (see Chapter 9.6) for a tract of any size within the City or for tracts of at least three acres in unincorporated Shelby County to facilitate the use of flexible techniques of land development and site design, by providing relief from district requirements designed for conventional developments, and may establish standards and procedures for planned developments in order to obtain one or more of the following objectives:

- A. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.
- B. Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.
- C. Functional and beneficial uses of open space areas.
- D. Preservation of natural features of a development site.
- E. Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.
- F. Rational and economic development in relation to public services.
- G. Efficient and effective traffic circulation, both within and adjacent to the development site, that supports or enhances the approved transportation network.
- H. Creation of a variety of housing compatible with surrounding neighborhoods to provide a greater choice of types of environment and living units.
- I. Revitalization of established commercial centers of integrated design to order to encourage the rehabilitation of such centers in order to meet current market preferences.
- J. Provision in attractive and appropriate locations for business and manufacturing uses in well-designed buildings and provision of opportunities for employment closer to residence with a reduction in travel time from home to work.
- K. Consistency with the Memphis 3.0 General Plan.

General Provisions

Staff agrees the general provisions standards and criteria as set out in Section 4.10.3 of the Unified Development Code are or will be met.

4.10.3 General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations of the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in this Chapter.

- A. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
- B. An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.
- C. The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access way shall be landscaped or otherwise improved except where natural features are such as to justify preservation.
- D. Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.
- E. Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
- F. Lots of record are created with the recording of a planned development final plan.

Residential Criteria

Staff agrees the additional planned residential development criteria as set out in Section 4.10.4 of the Unified Development Code are or will be met.

4.10.4 Planned Residential Developments

In addition to the standards and criteria set forth in Section 4.10.3, planned residential developments shall comply with the standards and criteria set forth below:

A. Formal Open Space

A minimum of 0.6% of the total land area of a planned residential development of 15 acres or more shall be subject to the formal open space requirements of Section 6.2.3. No open area may be delineated or accepted as formal open space under the provisions of this Chapter unless it meets the standards of Chapter 6.2, Open Space.

B. Accessibility of Site

All proposed streets, alleys and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development. The location of the entrance points of the streets, alleys and driveways upon existing public roadways shall be subject to the approval of the City or County Division of Public Works.

C. Off-Street Parking

Off-street parking shall be conveniently accessible to all dwelling units and other uses. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through use of trees, shrubs and/or hedges and screening walls.

D. Pedestrian Circulation

The pedestrian circulation system and its related walkways shall be separated, whenever feasible, from the vehicular street system in order to provide an appropriate degree of separation of pedestrian and vehicular movement.

E. Privacy

The planned residential development shall provide reasonable visual and acoustical privacy for dwelling units within and adjacent to the planned residential development. Protection and

enhancement of property and the privacy of its occupants may be provided by the screening of objectionable views or uses and reduction of noise through the use of fences, insulation, natural foliage, berms and landscaped barriers. High-rise buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining low rise buildings.

F. Distance Requirements

Where minimum distance requirements are provided between single family residential zoning districts and certain stipulated uses in this Code, the single-family residential areas of planned developments shall be considered zoned residential.

Commercial or Industrial Criteria

Staff agrees the additional planned commercial or industrial development criteria as set out in Section 4.10.5 of the Unified Development Code are or will be met.

4.10.5 Planned Commercial or Industrial Developments

Approval of a planned commercial or industrial development may be issued by the governing bodies for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotels and motels and similar facilities ordinarily accepted as commercial center uses and those industrial uses which can be reasonably be expected to function in a compatible manner with the other permitted uses in the area. In addition to the applicable standards and criteria set forth in Section 4.10.3, planned commercial or industrial developments shall comply with the following standards:

A. Screening

When commercial or industrial structures or uses in a planned commercial or industrial development abut a residential district or permitted residential buildings in the same development, screening may be required by the governing bodies.

B. Display of Merchandise

All business, manufacturing and processing shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way, provided, however, that when an automobile service station or gasoline sales are permitted in a planned commercial development, gasoline may be sold from pumps outside of a structure.

C. Accessibility

The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development.

D. Landscaping

Landscaping shall be required to provide screening of objectionable views of uses and the reduction of noise. High-rise buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining low-rise buildings.

Approval Criteria

Staff agrees the approval criteria as set out in Section 9.6.9 of the Unified Development Code are being met.

9.6.9 Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

- A. The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.
- B. The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.
- C. The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.
- D. The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.
- E. The project complies with all additional standards imposed on it by any particular provisions authorizing such use.
- F. The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.
- G. The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to insure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.
- H. Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.

Site Description

The subject property is +/-5.52 acres located generally along York Street south of Central Avenue, west of Cooper Street, and east of Tanglewood Street and comprised of the following parcels: 031136 00008, 031136 00009, 031136 00010, 031136 00010Z, 031136 00005C, 031136 00004, 031136 00011, 031136 00012, 031136 00001, 031135 00003C, 031133 00004C, 031133 00003, 031133 00002, and 031133 00001. The site is zoned Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and Residential Urban – 1 Historic (RU-1(H)) districts. Per the Assessor's Office the existing land uses are a mixture of industrial, commercial, parking, and vacant land.

Conclusions

The applicant is requesting mixed use (retail, office, multifamily, parking garage, etc.) planned development.

The proposed high-quality mixed use development would be a significant improvement for and investment in the community and would be a showcase of economic development in this anchor neighborhood.

The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.

The location and arrangement of the structures, parking areas, walks, lighting and other service facilities are compatible with the surrounding land uses.

RECOMMENDATION

Staff recommends approval with outline plan conditions.

Outline Plan Conditions

- Uses Permitted
 - A. Areas A and B: All uses permitted by right in the Commercial Mixed Use 1 (CMU-1) District, apartments, and a parking garage for both public rental and private use. Indoor multi-story self-service storage as defined by the Unified Development Code (UDC) shall not be permitted.

II. Bulk Regulations

- A. A maximum number of three hundred forty-eight (348) apartments units shall be allowed.
- B. A maximum area of fifty-seven thousand (57,000) square feet of flex space shall be allowed. Flex space will be used as office, retail, or amenity space.
- C. Maximum building height shall be limited to the number of stories on the Central Yards Concept Plan as follows:
 - 1. Buildings AA and AE four (4) stories
 - 2. Buildings AC and AD five (5) stories
 - 3. Buildings AB and AG six (6) stories
 - 4. Building AF seven (7) stories
- D. Building setbacks shall be as follows:
 - 1. Buildings shall be setback a minimum of zero (0) feet from Cooper Street, Central Avenue and York Avenue.
 - 2. Buildings shall be setback two (2) to fifteen (15) feet from Tanglewood Street.
 - 3. Buildings shall be setback a minimum of five (5) feet from all other property lines.
- E. No roof top amenity shall be above the level of the fourth (4th) floor parking garage roof.

III. Access, Circulation and Parking:

- A. Improve Tanglewood Street with curb, gutter, sidewalk, and on-street parking.
- B. Improve York Avenue with curb, gutter, sidewalk, and on-street parking.
- C. Provide a round-about at the intersection of York Avenue and Tanglewood Street.
- D. Permit one (1) right turn only curb cut from the site onto Tanglewood Street for a service exit.
- E. Permit one (1) curb cut onto York Avenue from each of Areas A and B.
- F. The exact number, location, and design of permitted curb cuts shall be subject to the approval of the City Engineer.
- G. Provide a north-south private drive connecting Central Avenue to York Avenue. It shall be constructed to meet City Standards and provide a minimum pavement width of twenty (20) feet, exclusive of curb and gutter and on-street parking. Curbs shall be vertical. The design shall prohibit a left turn movement onto Central Avenue. The centerline of this drive shall be a minimum of three hundred (300) feet from the centerline of Cooper Street.
- H. A one-way (east to west) service drive shall be allowed between Cooper Street and the north-south private drive. The minimum pavement width shall be fourteen (14) feet at Cooper Street and then narrow to eleven (11) feet as indicated on the site plan. Curbs shall be vertical.
- I. All existing sidewalks shall be replaced if damaged during construction of this project, non-ADA compliant, or in disrepair.

- J. Parking shall be provided in accordance with the UDC. A minimum of one hundred (100) extra spaces will be provided for additional public parking.
- K. Bicycle parking shall be provided per the UDC, along with bicycle storage for the residents.

IV. Building facades, Landscaping and Screening

- A. Facade materials shall predominantly consist of masonry to contextually fit with the adjacent historic structures. Cementitious and/or fiber cement siding and/or panels, metal panels, glass, and exterior insulation and finishing systems (EIFS) may be used at appropriate locations subject to administrative review and approval.
- B. All streets and private drives shall be landscaped in accordance with the Midtown District Overlay of the UDC.
- C. A pedestrian plaza including greenspace shall be provided at the northwest corner of Cooper and York.
- D. Refuse containers shall be completely screened from public roads.
- E. All heating and air conditioning equipment located on the roof shall be screened using architectural features, including a parapet, mansard roof, or site-proof screening. Any ground-mounted equipment shall be screened from view with site-proof screening or landscape materials.
- F. All required landscaping and screening shall be provided exclusive of any areas encumbered by easements and shall not conflict with any easements, including overhead wires.
- G. Equivalent landscaping may be substituted for that required above, subject to administrative approval.
- H. Lighting shall be directed so as not to glare onto any residential property.
- I. Neither the planned development nor any private drives shall be gated. Fencing and gates will be allowed around the pool, dog park and other areas for security reasons.

V. Signs

- A. Three monument style signs shall be permitted in accordance with the CMU-1 District.
- B. Any ground mounted sign shall have a minimum setback of five (5) feet from the public right-of-way.
- C. Attached signs shall be in accordance with the CMU-1 District.
- D. No temporary or portable signs shall be permitted unless a permit is obtained from the Office of Construction Code Enforcement.

VI. Drainage

- A. All drainage plans shall be submitted to the City Engineer for review.
- B. Drainage improvements, including possible on-site detention shall be provided under contract in accordance with the City of Memphis/Shelby County Storm Water Management Manual. Detention shall be required based on pre-post site conditions.
- VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading screen, signage and other site requirements if equivalent alternatives are presented; however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may within ten days of such action, file a written appeal to the Zoning Administrator of the Division of Planning and Development to have such action reviewed by the Appropriate Governing Bodies.
- VIII. A final plan shall be filed within five (5) years of the approval of the Outline Plan. The Land Use Control Board may grant extensions at the request of the applicant.

- IX. Any final plat shall include, but not limited to, the following:
 - A. The Outline Plan Conditions.
 - B. A Standard Contract as defined by the Subdivision Regulations for any needed public improvements.
 - C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, building elevations, and identification of plan materials in required landscaping.
 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private, of any easement.
 - F. The one-hundred (100) year flood elevation.
 - G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to, the removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City/County Engineer:

1. Standard Subdivision Contract or Street Cut Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. The availability of City sanitary sewer is unknown at this time. Once the developer has submitted proposed sewer discharge rates to the City's Sewer Design Dept, a determination can be made as to available sewer capacity.

Roads:

- 3. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
- 4. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
- 5. Improve Tanglewood Street with curb, gutter and sidewalk.
- 6. Improve York Avenue with curb, gutter and sidewalk.
- 7. The service drive between Cooper and the north-south private drive shall be signed as one-way westbound.
- 8. Revise striping on Central Avenue to provide a two-way left turn lane to allow left turns onto the north-south private drive.
- 9. Developer shall be responsible for design and installation of all aspects of proposed crosswalk on Cooper, including, but not limited to, rapid flashing rectangular beacon assemblies, associated signing and marking and necessary curb ramps.
- 10. Proposed round-about shall include dedication and improvement with curb, gutter and sidewalk.

Traffic Control Provisions:

- 11. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5-foot-wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5-foot clear pedestrian path, an exception may be considered.
- 12. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the

duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.

13. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

Curb Cuts/Access:

- 14. The City Engineer shall approve the design, number and location of curb cuts. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
- 15. The proposed curb cut on Central Avenue shall be designed to prohibit left turns out. The centerline of this drive shall be a minimum of 300 ft. from the centerline of Cooper Street.

Drainage:

- 16. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
- 17. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis/Shelby County Storm Water Management Manual. This development is located in a "sensitive" drainage basin (Arlington Bayou).
- 18. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
- 19. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
- 20. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

21. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.

City/County Fire Division:

- All design and construction shall comply with the 2015 edition of the International Fire Code (as locally amended) and referenced standards.
- Fire apparatus access shall comply with section 503. Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).
- Fire protection water supplies (including fire hydrants) shall comply with section 507.
- Where fire apparatus access roads or a water supply for fire protection are required to be installed, such
 protection shall be installed and made serviceable prior to and during the time of construction except when
 approved alternate methods of protection are provided.
- A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

City Real Estate: No comments received.

City/County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water:

MLGW has reviewed the referenced application, and has no objection, **subject to** the following conditions:

- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities.
- No permanent structures, development or improvements are allowed within any utility easements, without prior MLGW written approval.
- It is the responsibility of the owner/applicant to comply with the National Electric Safety Code (NESC) and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- Underground Utility separation and clearance: The subject property is encumbered by existing utilities which
 may include overhead and underground facilities. It is the responsibility of the owner/applicant to maintain
 a minimum 3-foot (3') separation between any existing underground service lines or utilities and any
 proposed permanent structure or facility. This separation is necessary to provide sufficient space for any
 excavations to perform service, maintenance or replacement of existing utilities.
- It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- It is the responsibility of the owner/applicant to contact TN-1-CALL @ 1.800.351.1111, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance -

Landscape and Screening Regulations.

- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW utility easement without prior MLGW approval.
- Street Names: It is the responsibility of the owner/applicant to contact MLGW-Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online Street Name Search: http://www.mlgw.com/builders/landandmapping
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the impact on or conflict with any existing utilities, and the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
 - All residential developers must contact MLGW Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
 - All commercial developers must contact MLGW Builder Services line at 729-8630 to initiate the utility application process.
- It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning:

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: PD 20-15: Central Yards P.D.

Site Address/location: Southwest of Intersection of Central Avenue & Cooper Street Land Use Designation (see page 80 for details): Anchor Neighborhood- Primarily Single-Unit (AN-S), Anchor-Neighborhood Main Street (A-NMS)

Based on the existing adjacent land uses, degree of change map the proposal <u>IS CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 – 122 of the Memphis 3.0 General Plan:

FUTURE LAND USE PLANNING MAP



Red polygons indicate the application sites on the Future Land Use Map

2. Land use description & applicability:

Primarily Single-Unit Anchor Neighborhoods are characterized by house scale buildings between one and three stories high. A mixture of detached and semi-detached homes fills this residential designation around the anchor location, mostly consisting of single-family homes or duplexes. These neighborhoods are located within a 10-minute walk of the anchor, making residential more accessible for pedestrians to anchor amenities.



"AN-S" Goals/Objectives:

Preservation and stabilization of neighborhoods, focusing investment toward areas that support plan goals and objectives, locating housing near services and jobs, building up not out

"AN-S" Form & Location Characteristics:

ACCELERATE - Primarily detached, single-family residences. Attached single-family, duplexes, triplexes and quadplexes permitted on parcels within 100 feet of an anchor; at intersections where the presence of such housing type currently exists at the intersection and along avenues, boulevards and parkways as identified in the Street Types Map. Height: 1-3 stories. Scale: house-scale.

Neighborhood Main Street anchors are characterized by attached and detached mixed-use buildings that line the perimeter of the block along a street and may span several adjacent blocks. Neighborhood Main Streets provide retail and services to the surrounding neighborhoods. They serve as walkable or bikeable destinations where community members can meet multiple daily needs in a single trip. When thriving, they are nodes of activity that enliven a neighborhood.



"A-NMS" Goals/Objectives:

Support organization of services, amenities, and opportunities in direct relationship to anchor neighborhoods, focusing investment toward areas that support plan goals and objectives

"A-NMS" Form & Location Characteristics:

NURTURE, ACCELERATE, and SUSTAIN - Detached and attached single-family, duplexes, triplexes, quadplexes, large homes and apartments, including those with active ground floor commercial uses (including live/work) along sidewalk, as well as commercial and institutional uses. Height: 1-5 stories. Scales: house-scale and block-scale.

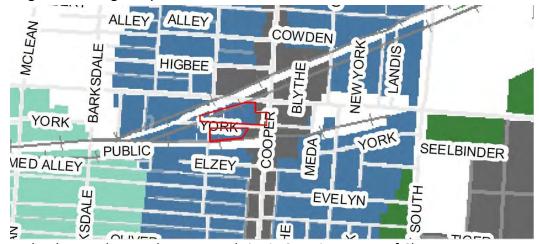
The applicant is seeking for approval for a planned development with the intention of redeveloping three parcels as a mixed-use designation community. The mixed-use development comprises of multi-family apartments, retail, office, and flex space, for a total of 7 buildings on 5.52 acres property, which is bounded by Central Avenue on the north, South Cooper Street to the east, abandoned railroad right of way to the south, and railroad tracks to the West.

Although the request does not meet the criteria of AN-S, a portion of the site falls under and is adjacent to the Neighborhood Main Street (A-NMS) future land use anchor which would allow mix of uses with focus on retail and services and block scale buildings of mid rises. The development proposal is likely to serve the surrounding neighborhood's need of multi-family residences and retail spaces. It is unlikely to alter the existing character of the adjacent single family historic neighborhoods due to its proximity to the edge of the anchor and as the proposed development is separated from the residential neighborhood by the railroad right of way and railroad tracks.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land use: Single-family, Multi-family, Commercial, Industrial, and Vacant. The subject site is surrounded by the following zoning districts: Residential Urban -1 (RU-1H) with Historic Overlay, Residential Single Family -6 (R-6H) with Historic Overlay, Commercial Mixed Uses -1 (CMU-1), and Employment (EMP). This requested land use is compatible with the adjacent zoning districts and land use because existing land use surrounding the parcels is similar in nature to the requested use.

4. Degree of Change map



Red polygons denote the proposed site in Sustain Degree of Change area

5. Degree of Change Descriptions

Requested parcel is designated as Sustain areas on the degree of change map. Sustain areas rely on limited public support and private resources to maintain the existing pattern of a place. Below is a list of ways to sustain an anchor.

Ways to Sustain:

- · Promote infill that is contextually compatible
- Maintain most existing zoning standards
 Reduce number of curb cuts to improve (not in conflict with future land use)
- Change street cross-sections to promote multi-modal transportation options
- Enhance connectivity to transit network
- Apply/Uphold historic overlay district
- Address regulatory barriers to quality development
- pedestrian and cyclist safety (access management)
- Encourage "curb to door" pedestrian and
 Improve existing parks and civic ADA accommodations
- Construct new streets or pathways to increase connectivity within large sites
- Improve public access points (covered bus stops, benches)
- Control scale and frequency of signage
- Upgrade infrastructure to improve storm water runoff
- buildings and spaces
- Allow increased density and building height
- Allow a broader mix of uses

The proposed application is congruent with the degree of change designation as it will be allowing a greater mix of uses, increased density and building height, consolidating smaller lots into larger parcels that are more attractive for development, and improving civic assets.

Although part of the site falls within the AN-S future land use designation, some parcels are also within the A-NMS future land use designation which supports the application. Additionally, the request is within a sustain anchor of Memphis 3.0, which supports infill growth and development around the anchor. The proposed development is supported by the "Neighborhood Main Street (A-NMS)" land use category which encourages investment and development to provide residential, retail, and services to the surrounding neighborhoods and beyond. Some features of the proposed development like parking garage, green plaza, retail, and office spaces will be consistered as amenities which will serve the Midtown Area and will be in congruent with the overall broader vision of Memphis 3.0 of "building up, not out".

Based on the information provided, the proposal <u>IS CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

APPLICATION



Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR PLANNED DEVELOPMENT APPROVAL (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

Date: October 29, 2020	Case #	#:						
	PLEASE TYPE OR	PRINT						
Name of Development: Central Yards Pla	anned Development							
Property Owner of Record: see attached	l .	F	hone #:					
Mailing Address:		City/State:		Zip				
Property Owner E-Mail Address:								
Applicant: RE&D Investments, LLC	331-6656							
Mailing Address: 232 Southmill Drive		_City/State: _Eads, T	ГN	Zip _38028				
Applicant E- Mail Address:claygk@co	omcast.net							
Representative: Dedrick Brittenum, Jr. Phone #: 901-347-3978								
Mailing Address: 3385 Airways Blvd., Suite	229	City/State: Memph	is, TN	Zip <u>38116</u>				
Representative E-Mail Address: db@bl	rittenumlaw.com							
Engineer/Surveyor: The Reaves Firm, Inc.;	Harvey Marcom	P	hone # <u>901-76</u>	1-2016				
Mailing Address: 6800 Poplar Ave. Suite 10	1	City/State: Memph	is, TN	Zip_38138				
Engineer/Surveyor E-Mail Address: h	marcom@reavesfirm.com							
Street Address Location: 2074, 2078 & 20	093 York Avenue, 2101 Central Av	venue, 0 York Ave., 0 S. C	Cooper St., 0 Cen	tral Ave., 0 Tanglewood				
Distance to nearest intersecting street:	Northwest corner of S. Cooper S	treet and York Avenue wit	th frontage on Ce	ntral Avenue also;				
	and the south side of York Avenu	ue, 236 feet west of S. Co	oper Street					
Area in Acres:	Parcel 1 2.99 Acres	Parcel 2 Parce 1.56 Acres 0.97 Acres		13				
Existing Zoning:	EMP & CMU-1	EMP	EMP & RU	 J-1(H)				
Existing Use of Property	vacant buildings	vacant land	vacant bui					
Requested Use of Property	multi-family, retail, office an	d parking garage	multi-family	and parking garage				
Medical Overlay District: Per Section 8.2.2D of the UDC, no Planned Developments are permitted in the Medical Overlay District. Unincorporated Areas: For residential projects in unincorporated Shelby County, please provide the following information:								
Tono wing intomitation.								
Number of Residential Units:		Bedrooms: _						
Expected Appraised Value pe	r Unit:	or Total Proje	ect:					

Amendment(s): Is the applicant applying for an amendation	ment to an	existing Planned Dev	elopment?
	Yes	_No_x	

The following modifications to existing planned developments are considered amendments: 1) a change to the permitted uses in a planned development, except in situations where a use of a higher classification is proposed to be changed to a use of a lower classification; 2) a modification to conditions that phases the uses, and 3) a conversion of public streets. See Section 9.6.11E(1) of the UDC for further details.

4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

- The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
 - The property is currently zoned for EMP uses which are impractical considering the growth trends in this area. The development will bring new life to the area by providing new residential/commercial uses. The two new parking structures will provide not only parking for this development but also public parking to relieve parking shortages brought about by existing developments in the area.
- An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.
 - Existing public utilities provided by MLGW are adequate and available to the project. Stormwater Management shall be provided by an underground detention system designed for pre and post site conditions as agreed to by City Engineering during previous conversations.
- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)
 - The existing industrial buildings on the site will be removed to accommodate the proposed development. All areas within the development outside of building footprints shall be landscaped or otherwise improved and generally consistent with the concept plan included with this application, which we believe to be compatible with the surrounding properties.
- Any modification of the district standards that would otherwise be applicable to the site are
 warranted by the design of the outline plan and the amenities incorporated therein, and are not
 inconsistent with the public interest.
 - With the exception of requesting a height variance from six (6) to seven (7) stories, this PD is in general conformance with the intent of the Midtown Overlay District. The additional height will allow for added public parking.
- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
 - An association will be established to maintain any and all common open space and/or common elements.
- Lots of records are created with the recording of a planned development final plan. Lots of records will be created with the recording of a planned development final plan.

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior

to filir	ig an application, the applicant shall arrange for a mandatory pre-application conference with OPD.
	Pre-Application Conference held on: June 3, 2020 with Josh Whitehead
the L	HBORHOOD MEETING – At least ten (10) days, but not more than 120 days, prior to a hearing before and Use Control Board, the applicant shall provide an opportunity to discuss the proposal with entatives from neighborhoods adjacent to the development site (Section 9.3.2).
	Neighborhood Meeting Requirement Met: Yes or Not Yet (Circle one) (If yes, documentation must be included with application materials)
	POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the f the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign g.
I (sva)	hereby make application for the Planned Development described above and on the accompanying
mater the aj availa	rials. I (we) accept responsibility for any errors or omissions which may result in the postponement of oplication being reviewed by the Memphis & Shelby County Land Use Control Board at the next able hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this cation and the above named persons to act on my behalf.

GUIDE FOR SUBMITTING PLANNED DEVELOPMENT APPLICATION (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

Date

- A THE APPLICATION Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
 - This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
 - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".
- B. **LETTER OF INTENT** The letter shall include the following:

Property Owner of Record

- a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
- A list of any professional consultants associated with the proposed development.
- c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed

10-29-2020 Date

PROPERTY OWNERS:

THOI ERT OWNERS.	
Parcel 1 Tax parcels: Ward 31 Block 136 Parcels 4, 5C, 8, 9, COOPER YORK DEVELOPMENT COMPANY, INC c/o Clayton Kemker 232 Southmill Drive Eads, TN 38028 901-831-6656 claygk@comcast.net	
Clayer KeMM	10-29-2020
Signature	Date
Parcel 2 Tax parcels: Ward 31 Block 133 Parcels 1, 2, 3 and RE&D INVESTMENTS, LLC c/o Clayton Kemker 232 Southmill Drive Eads, TN 38028 901-831-6656 claygk@comcast.net	4C
augen Kenler	10-29-2020
Signature	Date
Parcel 3 Tax parcels: Ward 31 Block 135 Parcel 3C and War SCOTT INDUSTRIES, INC. c/o Kobert H. Black Presiden Address: Suite 2900, One Commerce S City, State and Zip Code: Memobis, TN 381 Phone Number: 313-828-1861 Email Address: Voberth Siach Cy	t gume 40 5. Main Btreet 03-5529

Date 24, 2021

Julit U. Blesh, President

LETTER OF INTENT



Law pllc

ATTORNEY AT LAW
Airways Professional Center – Aerotropolis
3385 Airways Boulevard, Suite 229
Memphis, Tennessee 38116 USA
Telephone 901.347,3978
Facsimile 901.800.1927
db@brittenumlaw.com

30 October 2020

Josh Whitehead, AICP Planning Director / Administrator Memphis & Shelby County Office of Planning and Development City Hall 125 North Main Street, Suite 476 Memphis, TN 38103

RE: Central Yards
Planned Development Southwest of Intersection of Central Avenue & Cooper Street

Dear Administrator Whitehead:

I represent the Kemker companies in a planned development application for a site bounded by the abandoned railroad right of way on the south, the railroad tracks on the west, Central Avenue on the north and Cooper Street on the east. The subject property is currently zoned EMP and was a light industrial zone for many decades. The site does not include the parcel at the immediate southwest corner of Central Avenue and Cooper Street. Enclosed is the application with supporting documents for staff review and recommendation, LUCB consideration and recommendation and City Council action. The application is filed to be heard by the LUCB on Thursday, 10 December 2020.

The applicant is seeking approval for a concept to redevelop the above tract as a mixed-use destination community. A site of this size is rare inside the mid-town overlay and the assemblage of parcels occurred over several years. The development will be anchored by 350+units of multi-family apartments in buildings on the north side and south side of York Avenue. The plan calls for approximately 57,000 square feet of retail, office and flex space. All uses will be served by two garages located on the north side and south side of York Avenue which will also be available for public parking.

The Memphis 3.0 Comprehensive Plan for this area recommends planning action to encourage reinvestment and development to provide residential, retail and services to the surrounding community and beyond. As depicted on the site plan, the development will dedicate a common space on the northeast corner of York Avenue as plaza with green space. Upon approval, this development will serve as a preferred neighborhood place for living in the midtown area.

The existing uses in the vicinity are comprised of single-family residential west of the railroad tracks, employment zone and public park space to the north, retail and restaurant uses to the east and single-family residential south of the abandoned railroad right of way. The buildings have been designed with the surrounding neighborhood in mind and to promote an active, urban environment. Since the site is situated between two railroad lines, the development provides a smooth transition from the single family residential beyond the rail lines to the commercial uses to the east across Cooper Street.

The professional consultants associated with the development are:

Fleming Architects, Memphis
The Reaves Firm, Memphis
Dr. Martin Lipinski, Professor, Memphis
Dexter Muller, Memphis
The Carter Malone Group, Memphis

The planning objectives of the applicant is to provide a comfortable, attractive community that blends into the fabric of the Central / Cooper neighborhood for people seeking the unique mid-town Memphis experience. The primary approach is to keep the residential uses in mind by becoming a good neighbor to those currently living in the area. The applicant has incorporated strategic placement aspects in keeping with the area and will continue to seek input to make this development a success for the neighborhood and the developers.

Thank you for the time to review the application and setting it for hearing before the LUCB. On behalf of the applicants and the entire development team, support for approval is requested for this application. Should you have questions or comments, please advise. I remain,

Very truly yours,

Brittenum Law pllc

Dedrick Brittenum, Jr.

enclosure



AFFIDAVIT

Shelby County State of Tennessee
I, Mike Frye , being duly sworn, depose and say that at 10:30 mpm on the 25th day of Nov , 2020, I posted a Public Notice Sign(s) pertaining to Case No. PD 20-15 at Cooper, Central, York & Tanglewood
providing notice of a Public Hearing before theLand Use Control Board,Memphis City Council,Shelby County Board of Commissioners for consideration of a proposedLand Use Action (Planned Development),Street /Alley ClosureSpecial Use Permit,Use Variance,Zoning District Map Amendment), a photograph of said sign(s) being attached hereon and a copy of
the sign purchase receipt or rental contract attached hereto. 11-15-2020
Owner, Applicant or Representative Date
Subscribed and sworn to before me this 25 day of

LETTERS RECEIVED

Five letters	of support	were	received	at th	e time	of	completion	of	this	report	and	have	subsequently	been
attached.														



November 17, 2020

Jeffrey Penzes Memphis and Shelby County Division of Planning & Development 125 North Main Street, Suite 468 Memphis, TN 38103

Dear Jeffrey,

On behalf of the Cooper-Young Business Association Board of Directors, I would like to state our support of the Central Yards Planned Development at the corner of our Central Avenue and Cooper Street gateway.

We agree that this area of our Historic District needs a major facelift. Empty metal buildings and razor wire is not what Cooper Young is now some 150 years later. We look forward to the new residents that this multi-family project will bring to our area. This development will also afford a much-needed opportunity for single and senior persons to live in our neighborhood.

We welcome the additional retail and mixed-use space. We have had nine new businesses startup in 2020 putting our available commercial inventory at an all-time low. We are excited to see the added "green space" that will afford our residents and patrons a place to enjoy outside activities.

The addition of a public parking garage for the north end of Cooper Young is a triple bonus. With all the new businesses that have moved into Cooper Young, our parking has been at a minimum for a long time in that area. We realize the development's need for parking and understand the added height issues of two of the buildings. We commend the owners, architects and planners on the due diligence they have shown in this proposed development in keeping with the Midtown Overlay as much as possible.

We look forward to adding Central Yards to our Cooper Young Historic District family of businesses.

Sincerely,

Tarnara L. Cook
Executive Director



Cooper-Young Community Association 2298 Young Ave Memphis, TN 38104 901-272-2922 info@cooperyoung.org

December 2, 2020

TO: M/SC Land Use Control Board

RE: Case Number PD 20-15 – Central Yards Planned Development

Land Use Control Board Members:

After consideration of the submitted application, the Cooper-Young Community Association Development Committee is overall supportive of the application with the exception of the seven-story height variance, which we strongly believe is inappropriate and contextually unfit. We also ask that conditions are set in place to ensure the Planned Development is realized as presented to the neighborhood in this application.

As it stands, six stories, although technically allowable under the UDC, will still tower over the neighborhood and the existing buildings. Although the applicant argues placement in the rear of the development and the existing tree line is adequate to shield it, our major concern is for our residents who live directly to the south of the development, for which these towering buildings will be front and center. They will irrevocably disrupt the value and enjoyment of these adjacent properties as well as dominate and permanently mar Cooper-Young's northern border if approved. We urge the Board to deny a height variance due to its inappropriateness within the context of the neighborhood. Reducing the number of units, and thus the number of parking spaces would easily allow for this plan to move forward with less height.

We are encouraged by the applicant's willingness to provide a sight study from Elzey and Tanglewood as well as their plans to address traffic issues and existing drainage problems and to include native trees and plants. We are interested in the steps the applicant is willing to take to further reduce concrete and incorporate more greenspace as well as to promote alternate transit options, such as bicycle storage and parking.

We respectfully request the following conditions be attached to the application in order to minimize adverse effects on the neighborhood:

- Maximum building height shall be six stories
- Neither the planned development nor any private drives on the planned development shall be gated
- Any new streets within the planned development shall comply with the UDC and include sidewalks and landscaping, such as native trees and plants. Curbs shall be vertical.
- Buildings shall be limited to the number of floors, or stories, as indicated on the Central Yards
 Site Plan as follows: AA 4 stories, AB 6 stories, AC 5 stories, AD 5 stories, AE 4 stories, AF 7 stories (or 6 as decided by this Board) and AG 6 stories.
- Buildings fronting Central (AA and AC) and Cooper (AE) shall have a maximum of 3 stories on the frontage as proposed.
- Rooftop amenity shall not be allowed on building AF.



Cooper-Young Community Association 2298 Young Ave Memphis, TN 38104 901-272-2922 info@cooperyoung.org

- Building areas were presented in the neighborhood meeting and we request that language be included limiting the footprints of each building to those areas as presented. This information is not included in the application. The areas should be individually listed per building.
- Utility, Overnight Lodging, including AirBnB, VRBO, etc., Self-Service Storage and Vehicle Sales uses as defined in the UDC shall not be permitted.
- Commercial Parking uses are not permitted in CMU-1. Please clarify how this will be incorporated into the PD
- Item IV.B Modify it to read "All streets and private drives shall be landscaped..."
- Item VIII Modify it to read "... however, any adjacent property owner or neighborhood association whose boundaries include properties within 1,500 feet of the subject property who is dissatisfied..."
- The maximum number of residential units shall be 348
- The Streetscape Plate included in the application requires 9' from back of curb to face of building. We have concerns that the wide sidewalks shown on the site plan and renderings may be reduced in the future. Provide a dimensioned site plan showing the sidewalk widths at all points.
- Facade materials as depicted in the elevations shall be used and shall predominantly consist of masonry to contextually fit with the adjacent historic structures.
- Drainage improvements such as on-site detention shall be provided.

The applicant wants to build in Cooper-Young because of the community we have developed over 100+ years; adjustments to better fit within our community such as reducing the height and subjecting the project to the above conditions would allow the development to contribute to what we have built rather than detract from our sense of place and community.

Respectfully,

Cooper-Young Community Association Development Committee

Olivia Wall, Development Committee Chair and CYCA Secretary

PD 20-15

Dane Forlines <focusoncities@gmail.com>

Tue 11/3/2020 12:17 PM

To: Penzes, Jeffrey <jeffrey.penzes@memphistn.gov>

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Penzes

Thank you

I support the proposed planned development near Cooper & Central known as PD 20-15. The development will provide much needed density in the Midtown area and strengthen the growing mixed-use character of the broader Cooper-Young neighborhood. The site plan and photo simulations show urban-style architecture appropriate for the context - brick buildings, storefront design, built up to sidewalk, 3-7 stories, parking in rear, etc. This character will reinforce and extend the established urban fabric beyond Central and Cooper, strengthening the identity of the area as a district and not just a corridor.

I also like to see that the Hazlip and Toad Hall buildings are outside of the site plan and therefore not included in the structures that will be demolished. It is important that these structures be preserved to the extent possible.

Dane Forlines			
3450 Tutwiler Ave			
Virus-free. w	ww.avast.com		

PD 20-15 Central Yards

Michael Lipe <mlipe@newbluestrategies.com>

Thu 12/3/2020 11:15 AM

To: Penzes, Jeffrey <jeffrey.penzes@memphistn.gov>

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jeffrey,

I wanted to send this email to express my support for the proposed Central Yards project. This development will be an exciting addition to the our growing community. As a resident of Cooper Young, who lives about about a block from this proposed site, I am looking forward to what this will bring to the area. Thank you for your consideration.

Sincerely, Michael Lipe

C. Michael Lipe Partner New Blue Strategies, LLC 811 S Cooper Memphis, TN 38104 731-298-4309 mlipe@newbluestrategies.com

PD 20-15.

Ty New <tynew1@gmail.com>

Sat 11/7/2020 12:04 AM

To: Penzes, Jeffrey <jeffrey.penzes@memphistn.gov>

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi, Jeffrey. I wanted to voice my support for the Central Yards development. That area is an eyesore and the infill/density will be a welcome addition. We need more big projects like this to fill in the gaps in midtown and between here and downtown. These kind of projects help both aesthetically and with value and cut down crime. I'm all for more. Memphis needs and deserves it. We need to think bigger.

Thank you.

Ty New Central Gardens resident

Ty New | tynew1@gmail.com | 901-230-8674

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday, December 10, 2020*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: PD 20-15

DEVELOPMENT: Central Yards Planned Development

LOCATION: Generally along York Street south of Central Avenue, west of Cooper

Street, and east of Tanglewood Street

COUNCIL DISTRICT(S): District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Cooper York Development Company, Inc., RE&D Investments, LLC,

and Scott Industries, Inc. / RE&D Investments, LLC

REPRESENTATIVE: Brittenum Law – Dedrick Brittenum, Jr.

REQUEST: Mixed use (retail, office, multifamily, parking garage, etc.) planned

development

EXISTING ZONING: Employment (EMP), Commercial Mixed Use – 1 (CMU-1), and

Residential Urban – 1 Historic (RU-1(H))

AREA: +/-5.52 acres

The following spoke in support of the application: Dedrick Brittenum, Jr. and Scott Fleming

The following spoke in opposition the application: Olivia Wall

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with conditions.

The motion passed by a unanimous vote of 9-0 on the regular agenda.

Respectfully,

Jeffrey Penzes Principal Planner

Land Use and Development Services
Division of Planning and Development

Cc: Committee Members

File

PD 20-15 OUTLINE PLAN CONDITIONS

Uses Permitted

A. Areas A and B: All uses permitted by right in the Commercial Mixed Use – 1 (CMU-1) District, apartments, and a parking garage for both public rental and private use. Indoor multi-story self-service storage as defined by the Unified Development Code (UDC) shall not be permitted.

II. Bulk Regulations

- A. A maximum number of three hundred forty-eight (348) apartments units shall be allowed.
- B. A maximum area of fifty-seven thousand (57,000) square feet of flex space shall be allowed. Flex space will be used as office, retail, or amenity space.
- C. Maximum building height shall be limited to the number of stories on the Central Yards Concept Plan as follows:
 - 1. Buildings AA and AE four (4) stories
 - 2. Buildings AC and AD five (5) stories
 - 3. Buildings AB and AG six (6) stories
 - 4. Building AF seven (7) stories
- D. Building setbacks shall be as follows:
 - 1. Buildings shall be setback a minimum of zero (0) feet from Cooper Street, Central Avenue and York Avenue.
 - 2. Buildings shall be setback two (2) to fifteen (15) feet from Tanglewood Street.
 - 3. Buildings shall be setback a minimum of five (5) feet from all other property lines.
- E. No roof top amenity shall be above the level of the fourth (4th) floor parking garage roof.

III. Access, Circulation and Parking:

- A. Improve Tanglewood Street with curb, gutter, sidewalk, and on-street parking.
- B. Improve York Avenue with curb, gutter, sidewalk, and on-street parking.
- C. Provide a round-about at the intersection of York Avenue and Tanglewood Street.
- D. Permit one (1) right turn only curb cut from the site onto Tanglewood Street for a service exit.
- E. Permit one (1) curb cut onto York Avenue from each of Areas A and B.
- F. The exact number, location, and design of permitted curb cuts shall be subject to the approval of the City Engineer.
- G. Provide a north-south private drive connecting Central Avenue to York Avenue. It shall be constructed to meet City Standards and provide a minimum pavement width of twenty (20) feet, exclusive of curb and gutter and on-street parking. Curbs shall be vertical. The design shall prohibit a left turn movement onto Central Avenue. The centerline of this drive shall be a minimum of three hundred (300) feet from the centerline of Cooper Street.
- H. A one-way (east to west) service drive shall be allowed between Cooper Street and the north-south private drive. The minimum pavement width shall be fourteen (14) feet at Cooper Street and then narrow to eleven (11) feet as indicated on the site plan. Curbs shall be vertical.
- I. All existing sidewalks shall be replaced if damaged during construction of this project, non-ADA compliant, or in disrepair.
- J. Parking shall be provided in accordance with the UDC. A minimum of one hundred (100) extra spaces will be provided for additional public parking.
- K. Bicycle parking shall be provided per the UDC, along with bicycle storage for the residents.

IV. Building facades, Landscaping and Screening

- A. Facade materials shall predominantly consist of masonry to contextually fit with the adjacent historic structures. Cementitious and/or fiber cement siding and/or panels, metal panels, glass, and exterior insulation and finishing systems (EIFS) may be used at appropriate locations subject to administrative review and approval.
- B. All streets and private drives shall be landscaped in accordance with the Midtown District Overlay of the UDC.
- C. A pedestrian plaza including greenspace shall be provided at the northwest corner of Cooper and York.
- D. Refuse containers shall be completely screened from public roads.
- E. All heating and air conditioning equipment located on the roof shall be screened using architectural features, including a parapet, mansard roof, or site-proof screening. Any ground-mounted equipment shall be screened from view with site-proof screening or landscape materials.
- F. All required landscaping and screening shall be provided exclusive of any areas encumbered by easements and shall not conflict with any easements, including overhead wires.
- G. Equivalent landscaping may be substituted for that required above, subject to administrative approval.
- H. Lighting shall be directed so as not to glare onto any residential property.
- I. Neither the planned development nor any private drives shall be gated. Fencing and gates will be allowed around the pool, dog park and other areas for security reasons.

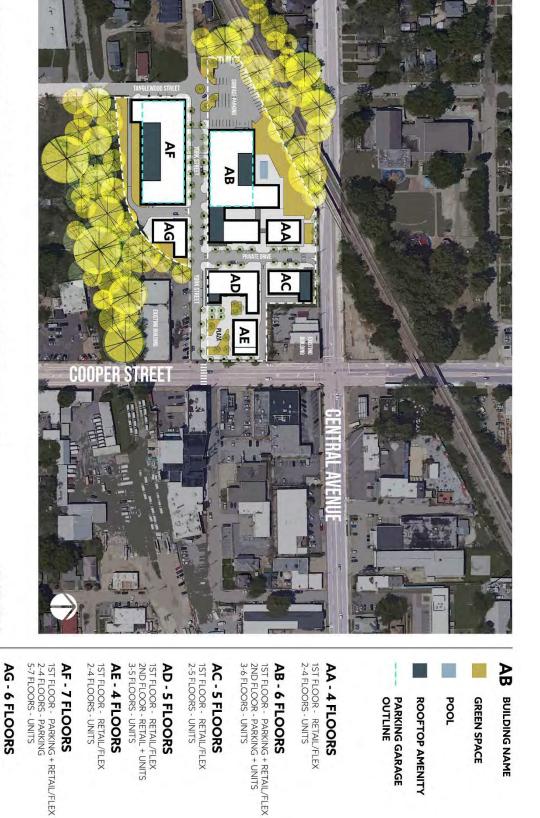
V. Signs

- A. Three monument style signs shall be permitted in accordance with the CMU-1 District.
- B. Any ground mounted sign shall have a minimum setback of five (5) feet from the public right-of-way.
- C. Attached signs shall be in accordance with the CMU-1 District.
- D. No temporary or portable signs shall be permitted unless a permit is obtained from the Office of Construction Code Enforcement.

VI. Drainage

- A. All drainage plans shall be submitted to the City Engineer for review.
- B. Drainage improvements, including possible on-site detention shall be provided under contract in accordance with the City of Memphis/Shelby County Storm Water Management Manual. Detention shall be required based on pre-post site conditions.
- VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading screen, signage and other site requirements if equivalent alternatives are presented; however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may within ten days of such action, file a written appeal to the Zoning Administrator of the Division of Planning and Development to have such action reviewed by the Appropriate Governing Bodies.
- VIII. A final plan shall be filed within five (5) years of the approval of the Outline Plan. The Land Use Control Board may grant extensions at the request of the applicant.

- IX. Any final plat shall include, but not limited to, the following:
 - A. The Outline Plan Conditions.
 - B. A Standard Contract as defined by the Subdivision Regulations for any needed public improvements.
 - C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, building elevations, and identification of plan materials in required landscaping.
 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private, of any easement.
 - F. The one-hundred (100) year flood elevation.
 - G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to, the removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.



January 5, 2021
Planning and Zoning Documents

RESOLUTION APPROVING THE CENTRAL YARDS PLANNED DEVELOPMENT AT THE SUBJECT PROPERTY LOCATED GENERALLY ALONG YORK STREET SOUTH OF CENTRAL AVENUE, WEST OF COOPER STERET, AND EAST OF TANGLEWOOD STREET, KNOWN AS CASE NUMBER PD 20-15.

WHEREAS, Chapter 9.6 of the Memphis and Shelby County Unified Development Code, being a section of the Joint Ordinance Resolution No. 5367, dated August 10, 2010, authorizes the Council of the City of Memphis to grant a planned development for certain stated purposes in the various zoning districts; and

WHEREAS, the RE&D Investments, LLC filed an application with the Memphis and Shelby County Office of Planning and Development to allow a mixed use (retail, office, multifamily, parking garage, etc.) planned development; and

WHEREAS, the Office of Planning and Development has received and reviewed the application in accordance with procedures, objectives and standards for planned developments as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation subject to outline plan conditions concerning the above considerations to the Memphis and Shelby County Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on December 10, 2020, and said Board has submitted its findings and recommendation subject to outline plan conditions concerning the above considerations to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 General Plan; and

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Office of Planning and Development and has determined that said development meets the objectives, standards and criteria for a special use permit, and said development is consistent with the public interests.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF MEMPHIS, that, pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code, a planned development is hereby granted in accordance with the attached outline plan conditions.

BE IT FURTHER RESOLVED, that the requirements of said aforementioned section of the Unified Development Code shall be deemed to have been complied with; that the outline plan shall bind the applicant, owner, mortgagee, if any, and the legislative body with respect to the contents of said plan; and the applicant and/or owner may file a final plan in accordance with said outline plan and the provisions of Section 9.6.11 of the Unified Development Code.

ATTEST:

CC: Division of Planning and Development

- Land Use and Development Services
- Office of Construction Code Enforcement

OUTLINE PLAN CONDITIONS

I. Uses Permitted

A. Areas A and B: All uses permitted by right in the Commercial Mixed Use – 1 (CMU-1) District, apartments, and a parking garage for both public rental and private use. Indoor multi-story self-service storage as defined by the Unified Development Code (UDC) shall not be permitted.

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- A. A maximum number of three hundred forty-eight (348) apartments units shall be allowed.
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- E. No roof top amenity shall be above the level of the fourth (4th) floor parking garage roof.

III. Access, Circulation and Parking:

- A. Improve Tanglewood Street with curb, gutter, sidewalk, and on-street parking.
- B. Improve York Avenue with curb, gutter, sidewalk, and on-street parking.
- C. Provide a round-about at the intersection of York Avenue and Tanglewood Street.
- D. Permit one (1) right turn only curb cut from the site onto Tanglewood Street for a service exit.
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A. Facade materials shall predominantly consist of masonry to contextually fit with the adjacent historic structures. Cementitious and/or fiber cement siding and/or panels, metal panels, glass,

- and exterior insulation and finishing systems (EIFS) may be used at appropriate locations subject to administrative review and approval.
- B. All streets and private drives shall be landscaped in accordance with the Midtown District Overlay of the UDC.
- C. A pedestrian plaza including greenspace shall be provided at the northwest corner of Cooper and York.
- D. Refuse containers shall be completely screened from public roads.
- E. All heating and air conditioning equipment located on the roof shall be screened using architectural features, including a parapet, mansard roof, or site-proof screening. Any ground-mounted equipment shall be screened from view with site-proof screening or landscape materials.
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- H. Lighting shall be directed so as not to glare onto any residential property.
- I. Neither the planned development nor any private drives shall be gated. Fencing and gates will be allowed around the pool, dog park and other areas for security reasons.

V. Signs

- A. Three monument style signs shall be permitted in accordance with the CMU-1 District.
- B. Any ground mounted sign shall have a minimum setback of five (5) feet from the public right-of-way.
- C. Attached signs shall be in accordance with the CMU-1 District.
- D. No temporary or portable signs shall be permitted unless a permit is obtained from the Office of Construction Code Enforcement.

VI. Drainage

- A. All drainage plans shall be submitted to the City Engineer for review.
- B. Drainage improvements, including possible on-site detention shall be provided under contract in accordance with the City of Memphis/Shelby County Storm Water Management Manual. Detention shall be required based on pre-post site conditions.
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 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private, of any easement.

- F. The one-hundred (100) year flood elevation.
- G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to, the removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.



AG - 6 FLOORS

AF - 7 FLOORS

1ST FLOOR - PARKING + RETAIL/FLEX 2-4 FLOORS - PARKING 5-7 FLOORS - UNITS

1ST FLOOR - RETAIL/FLEX 2-4 FLOORS - UNITS AE - 4 FLOORS

1ST FLOOR - RETAIL/FLEX 2ND FLOOR - RETAIL + UNITS 3-5 FLOORS - UNITS AD - 5 FLOORS 1ST FLOOR - RETAIL/FLEX 2-5 FLOORS - UNITS AC - 5 FLOORS 1ST FLOOR - PARKING + RETAIL/FLEX 2ND FLOOR - PARKING + UNITS 3-6 FLOORS - UNITS AB - 6 FLOORS

AA - 4 FLOORS

1ST FLOOR - RETAIL/FLEX 2-4 FLOORS - UNITS

PARKING GARAGE OUTLINE ROOFTOP AMENITY

POOL

GREEN SPACE

BUILDING NAME

AB



City Hall - 125 N. Main Street, Suite 468 - Memphis, Tennessee 38103 - (901) 636-6619

December 10, 2020

RE&D Investments, LLC

Sent via electronic mail to (applicant's representative): db@brittenumlaw.com

Central Yards Planned Development

Case Number: PD 20-15

LUCB Recommendation: Approval with outline plan conditions

Dear applicant,

On Thursday, December 10, 2020, the Memphis and Shelby County Land Use Control Board recommended *approval* of your planned development application for the Central Yards Planned Development, subject to the attached outline plan conditions.

This application will be forwarded, for final action, to the Council of the City of Memphis. The Council will review your application in a committee meeting prior to voting on it in a public hearing. The applicant or the applicant's representative(s) shall be in attendance at all meetings and hearings.

It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

If for some reason you choose to withdraw your application, a letter should be mailed to the Land Use and Development Services Department of the Division of Planning and Development at the address provided above or emailed to the address provided below.

If you have questions regarding this matter, please feel free contact me at (901) 636-6619 or via email at jeffrey.penzes@memphistn.gov.

Respectfully,

Jeffrey Penzes Principal Planner

Land Use and Development Services

Division of Planning and Development

Cc: Dedrick Brittenum, Jr., Brittenum Law

File

Outline Plan Conditions

- I. Uses Permitted
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Date: October 29, 2020

Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR PLANNED DEVELOPMENT APPROVAL (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

Date: October 29, 2020	Ca	ase #:		
	PLEASE TYP	E OR PRINT		
Name of Development: Central Yards Plan	ned Development			
Property Owner of Record: see attached			Phone #:	
Mailing Address:		City/State:		Zip
Property Owner E-Mail Address:				
Applicant: RE&D Investments, LLC			Phone # _90	01-831-6656
Mailing Address: 232 Southmill Drive		City/State: _Eads,	TN	Zip <u>38028</u>
Applicant E- Mail Address: claygk@com	cast.net			
Representative: Dedrick Brittenum, Jr.			Phone #: <u>90</u>	1-347-3978
Mailing Address: 3385 Airways Blvd., Suite 2	29	City/State: Memp	his, TN	Zip 38116
Representative E-Mail Address: db@brit	tenumlaw.com			
Engineer/Surveyor: The Reaves Firm, Inc.; I	Harvey Marcom]	Phone # <u>901</u> -	761-2016
Mailing Address: 6800 Poplar Ave. Suite 101		City/State: Memp	his, TN	Zip_38138
Engineer/Surveyor E-Mail Address: hm	narcom@reavesfirm.com			
Street Address Location: 2074, 2078 & 208	3 York Avenue, 2101 Cent	tral Avenue, 0 York Ave., 0 S.	Cooper St., 0 C	Central Ave., 0 Tanglewood
Distance to nearest intersecting street:	Northwest corner of S. Coc	per Street and York Avenue w	ith frontage on	Central Avenue also;
		Avenue, 236 feet west of S. Co	•	
Area in Acres:	Parcel 1 2.99 Acres	Parcel 2 1.56 Acres	Paro 0.97 Acı	cel 3
Existing Zoning:	EMP & CMU-1	EMP	EMP &	RU-1(H)
Existing Use of Property	vacant buildings	vacant land	vacant	buildings
Requested Use of Property	multi-family, retail, offi	ce and parking garage	multi-fan	mily and parking garage
Medical Overlay District: Per Section Overlay District. Unincorporated Areas: For residenti				
following information:	1 J =	1	J) F-340	1
Number of Residential Units: _		Bedrooms:		
Expected Appraised Value per	Unit:	or Total Proj	ect:	

Amendment(s): Is the applicant	applying for an a	amendment to	o an existing	Planned	Development?
		Yes	No X		

The following modifications to existing planned developments are considered amendments: 1) a change to the permitted uses in a planned development, except in situations where a use of a higher classification is proposed to be changed to a use of a lower classification; 2) a modification to conditions that phases the uses, and 3) a conversion of public streets. See Section 9.6.11E(1) of the UDC for further details.

4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

- The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
 - The property is currently zoned for EMP uses which are impractical considering the growth trends in this area. The development will bring new life to the area by providing new residential/commercial uses. The two new parking structures will provide not only parking for this development but also public parking to relieve parking shortages brought about by existing developments in the area.
- An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.
 - Existing public utilities provided by MLGW are adequate and available to the project. Stormwater Management shall be provided by an underground detention system designed for pre and post site conditions as agreed to by City Engineering during previous conversations.
- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)
 The existing industrial buildings on the site will be removed to accommodate the proposed development. All areas within the development outside of building footprints shall be landscaped or otherwise improved and generally consistent with the concept plan included with this application, which we believe to be compatible with the surrounding properties.
- Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.
 - With the exception of requesting a height variance from six (6) to seven (7) stories, this PD is in general conformance with the intent of the Midtown Overlay District. The additional height will allow for added public parking.
- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
 - An association will be established to maintain any and all common open space and/or common elements.
- Lots of records are created with the recording of a planned development final plan. Lots of records will be created with the recording of a planned development final plan.

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on:	June 3, 2020	_with	Josh Whitehead	
• •				

NEIGHBORHOOD MEETING – At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2).

Neighborhood Meeting Requirement Met: Yes or Not Yet (Circle one)
(If yes, documentation must be included with application materials)

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

I (we) hereby make application for the Planned Development described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

		Center Herry	10-29-707
Property Owner of Record	Date	Applicant	Date

GUIDE FOR SUBMITTING PLANNED DEVELOPMENT APPLICATION (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

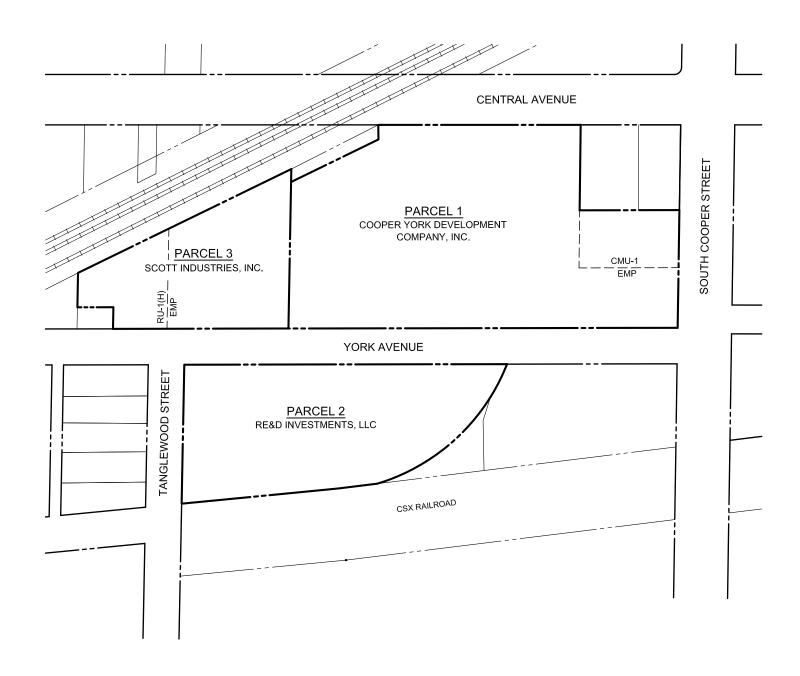
- A <u>THE APPLICATION</u> Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
 - 1) This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
 - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".
- B. <u>LETTER OF INTENT</u> The letter shall include the following:
 - a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
 - b) A list of any professional consultants associated with the proposed development.
 - c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed

PROPERTY OWNERS:

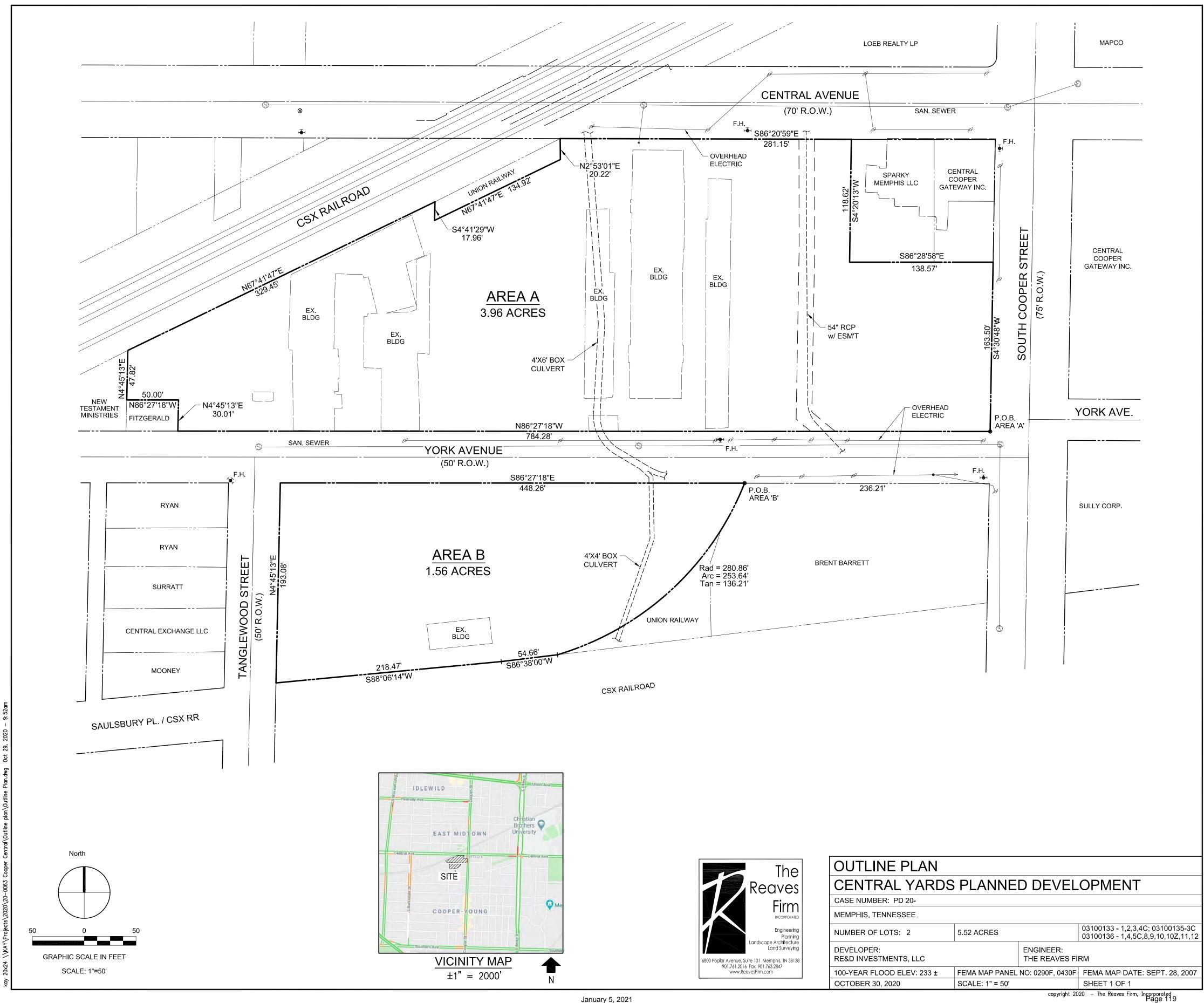
Parcel 1 Tax parcels: Ward 31 Block 136 Parcels 4, 5C, 8, 9, 10 COOPER YORK DEVELOPMENT COMPANY, INC. c/o Clayton Kemker 232 Southmill Drive Eads, TN 38028 901-831-6656	and 10Z
claygk@comcast.net	
ayor Kenler	10-29-2020
Signature	Date
Parcel 2 Tax parcels: Ward 31 Block 133 Parcels 1, 2, 3 and 4C RE&D INVESTMENTS, LLC c/o Clayton Kemker 232 Southmill Drive Eads, TN 38028 901-831-6656 claygk@comcast.net	
Clayer Ferm	10-29-2020
Signature	Date
Parcel 3	
Tax parcels: Ward 31 Block 135 Parcel 3C and Ward 3 SCOTT INDUSTRIES, INC. c/o Nobert H. Black, President Address: Suite 2900, One Commence Sque City, State and Zip Code: Memobis TN 38103 Phone Number: 713-828-1861 Email Address: voberth black of ya	
·	

Date 24, 2020

Signature



OWNERSHIP EXHIBIT



PROPERTY DESCRIPTION - AREA 'A'

BEGINNING AT THE NORTHWEST CORNER OF SOUTH COOPER STREET (75' R.O.W.) AND YORK AVENUE (50' R.O.W.); THENCE N86°27'18"W ALONG THE NORTH LINE OF SAID YORK AVENUE A DISTANCE OF 784.28 FEET TO A POINT; THENCE N4°45'13"E LEAVING SAID NORTH LINE A DISTANCE OF 30.00 FEET TO A POINT; THENCE N86°27'18"W A DISTANCE OF 50.00 FEET TO A POINT; THENCE N4°45'13"E A DISTANCE OF 47.82 FEET TO A POINT ON THE SOUTH LINE OF THE CSX RAILROAD PROPERTY; THENCE N67°41'47"E ALONG SAID SOUTH LINE A DISTANCE OF 329.45 FEET TO A POINT; THENCE S4°41'29"W A DISTANCE OF 17.96 FEET TO A POINT; THENCE N67°41'47"E A DISTANCE OF 134.92 FEET TO A POINT; THENCE N2°53'01"E A DISTANCE OF 20.22 FEET TO A POINT ON THE SOUTH LINE OF CENTRAL AVENUE (70' R.O.W.); THENCE S86°20'59"E ALONG SAID SOUTH LINE A DISTANCE OF 281.15 FEET TO A POINT; THENCE S4°20'13"W LEAVING SAID SOUTH LINE A DISTANCE OF 118.62 FEET TO A POINT; THENCE S86°28'58"E A DISTANCE OF 138.57 FEET TO A POINT ON THE WEST LINE OF SOUTH COOPER STREET; THENCE S4°30'48"W ALONG SAID WEST LINE A DISTANCE OF 163.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.96 ACRES.

PROPERTY DESCRIPTION - AREA 'B'

BEGINNING AT A POINT ON THE SOUTH LINE OF YORK AVENUE (50' R.O.W.) 236.21 FEET WEST OF THE WEST LINE OF SOUTH COOPER STREET (75' R.O.W.), SAID POINT BEING THE NORTHWEST CORNER OF THE BRENT BARRETT PROPERTY (INST. #06054672); THENCE ALONG THE WEST LINE OF SAID BARRETT PROPERTY WITH A 280.86 FOOT RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 253.64 FEET TO A POINT ON THE NORTH LINE OF THE CSX RAILROAD PROPERTY; THENCE S86°38'00"W ALONG SAID NORTH LINE A DISTANCE OF 54.66 FEET TO A POINT; THENCE S88°06'14"W A DISTANCE OF 218.47 FEET TO A POINT ON THE EAST LINE OF TANGLEWOOD STREET (50' R.O.W.); THENCE N4°45'13"E ALONG SAID EAST LINE A DISTANCE OF 193.08 FEET TO A POINT ON THE SOUTH LINE OF YORK AVENUE; THENCE S86°27'18"E ALONG THE SOUTH LINE OF SAID YORK AVENUE A DISTANCE OF 448.26 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.56 ACRES.



AB BUILDING NAME



POOL

ROOFTOP AMENITY

--- PARKING GARAGE OUTLINE

AA - 4 FLOORS

1ST FLOOR - RETAIL/FLEX 2-4 FLOORS - UNITS

AB-6 FLOORS

1ST FLOOR - PARKING + RETAIL/FLEX 2ND FLOOR - PARKING + UNITS 3-6 FLOORS - UNITS

AC - 5 FLOORS

1ST FLOOR - RETAIL/FLEX 2-5 FLOORS - UNITS

AD - 5 FLOORS

1ST FLOOR - RETAIL/FLEX 2ND FLOOR - RETAIL + UNITS 3-5 FLOORS - UNITS

AE-4 FLOORS

1ST FLOOR - RETAIL/FLEX 2-4 FLOORS - UNITS

AF - 7 FLOORS

1ST FLOOR - PARKING + RETAIL/FLEX 2-4 FLOORS - PARKING 5-7 FLOORS - UNITS

AG-6 FLOORS

FLEMING

1ST FLOOR - RETAIL/FLEX 2-6 FLOORS - UNITSpage 121

CENTRAL YARDS P.D. OUTLINE PLAN CONDITIONS

I. Uses Permitted

A. Areas A and B: All uses permitted by right in the Commercial Mixed Use 1 (CMU-1) District, apartments and a parking garage for both public and private use.

II. Bulk Regulations

A. Area A:

- 1. Maximum building height shall be 6 stories.
- 2. Buildings shall be setback a minimum of 0 feet from all public roads.
- 3. Buildings shall be setback a minimum of 5 feet from all other property lines.
- 4. A maximum of 45,000 s.f. of flex space shall be allowed. Flex space will be used as office, retail or amenity space.
- 5. A maximum of 225 apartment units shall be allowed.

B. Area B:

- 1. Maximum building height shall be 7 stories.
- 2. Buildings shall be setback a minimum of 0 feet from York Avenue.
- 3. Buildings shall be setback 2 to 15 feet from Tanglewood Street.
- 4. Buildings shall be setback a minimum of 5 feet from all other property lines.
- 5. A maximum of 12,000 s.f. of flex space shall be allowed. Flex space will be used as office, retail or amenity space.
- 6. A maximum of 128 apartment units shall be allowed.

III. Access, Circulation and Parking:

- A. Improve Tanglewood Street with curb, gutter, sidewalk and on-street parking.
- B. Improve York Avenue with curb, gutter, sidewalk and on-street parking.
- C. Provide a round-about at the intersection of York Avenue and Tanglewood Street.
- D. Permit one (1) right turn only curb cut from the site onto Tanglewood Street for a service exit.
- E. Permit one (1) curb cut onto York Avenue from each of Areas A and B.
- F. The exact number, location and design of permitted curb cuts shall be subject to the approval of the City Engineer.

- G. Provide a north-south private drive connecting Central Avenue to York Avenue. It shall be constructed to meet City Standards and provide a minimum pavement width of 20 feet, exclusive of curb and gutter and on-street parking. The design shall prohibit a left turn movement onto Central Avenue. The centerline of this drive shall be a minimum of 300 feet from the centerline of Cooper Street.
- H. A one-way (east to west) service drive shall be allowed between Cooper Street and the north-south private drive. The minimum pavement width shall be 14 feet at Cooper Street and then narrow to 11 feet as indicated on the site plan.
- I. All existing sidewalks shall be replaced if damaged during construction of this project, non-ADA compliant or in disrepair.
- J. Parking shall be provided in accordance with the Unified Development Code (UDC). A minimum of 100 extra spaces will be provided for additional public parking.

IV. Building facades, Landscaping and Screening

- A. Building materials to be used on all facades to include masonry, cementitious siding and panels, metal, glass and limited exterior insulation and finishing systems (EIFS).
- B. All streets shall be landscaped in accordance with a modified Type S Plate as submitted with this application.
- C. A pedestrian plaza including greenspace shall be provided at the northwest corner of Cooper and York.
- D. Refuse containers shall be completely screened from public roads.
- E. All heating and air conditioning equipment located on the roof shall be screened using architectural features, including a parapet, mansard roof, or site-proof screening. Any ground-mounted equipment shall be screened from view with site-proof screening or landscape materials.
- F. All required landscaping and screening shall be provided exclusive of any areas encumbered by easements and shall not conflict with any easements, including overhead wires.
- G. Equivalent landscaping may be substituted for that required above, subject to administrative approval.
- H. Lighting shall be directed so as not to glare onto any residential property.

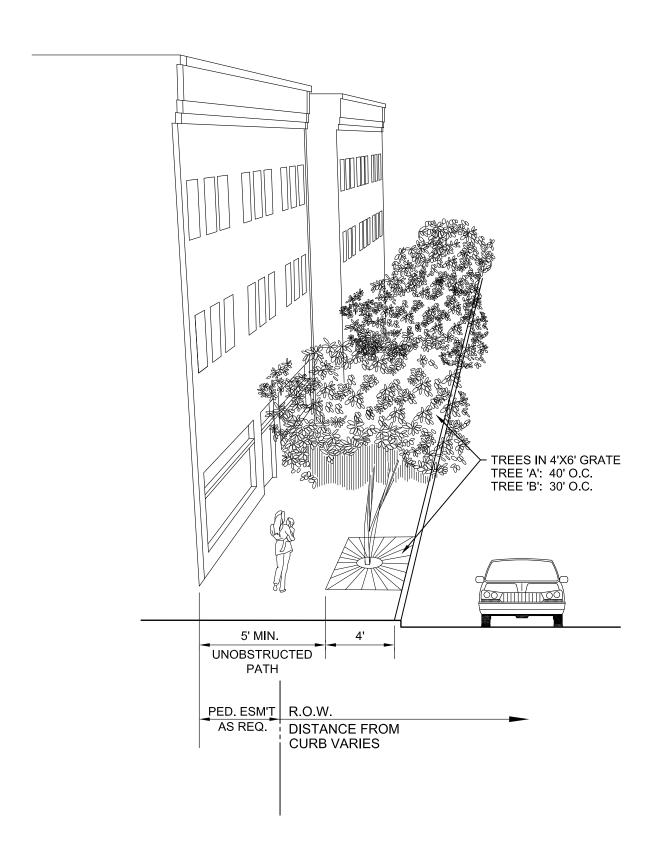
V. Signs

- A. Three monument style signs shall be permitted in accordance with the CMU-1 District.
- B. Any ground mounted sign shall have a minimum setback of 5 feet from the public right-of-way.
- C. Attached signs shall be in accordance with the CMU-1 District.
- D. No temporary or portable signs shall be permitted unless a permit is obtained from the Office of Construction Code Enforcement.

VI. Drainage

- A. All drainage plans shall be submitted to the City Engineer for review.
- B. Drainage improvements, including possible on-site detention shall be provided under contract in accordance with the City of Memphis/Shelby County Storm Water Management Manual.

 Detention shall be required based on pre-post site conditions.
- VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading screen, signage and other site requirements if equivalent alternatives are presented; however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may within ten days of such action, file a written appeal to the Director of Office of Planning and Development to have such action reviewed by the Appropriate Governing Bodies.
- VIII. A final plan shall be filed within five years of the approval of the Outline Plan. The Land Use Control Board may grant extensions at the request of the applicant.
- IX. Any final plat shall include the following:
 - A. The Outline Plan Conditions.
 - B. A Standard Contract as defined by the Subdivision Regulations for any needed public improvements.
 - C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, and identification of plan materials in required landscaping.
 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private, of any easement.
 - F. The one-hundred (100) year flood elevation.
 - G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to, the removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.



STREETSCAPE PLATE



WEST ELEVATION @ TANGLEWOOD STREET: SCALE 1.50



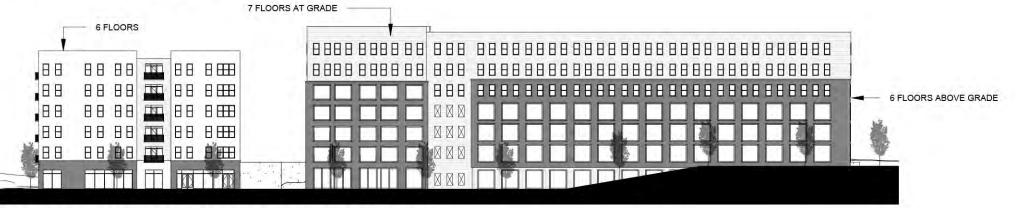
EAST ELEVATION @ COOPER STREET: SCALE 1.50



NORTH ELEVATION @ CENTRAL AVENUE: SCALE 1.50



SOUTH ELEVATION @ YORK STREET: SCALE 1.50



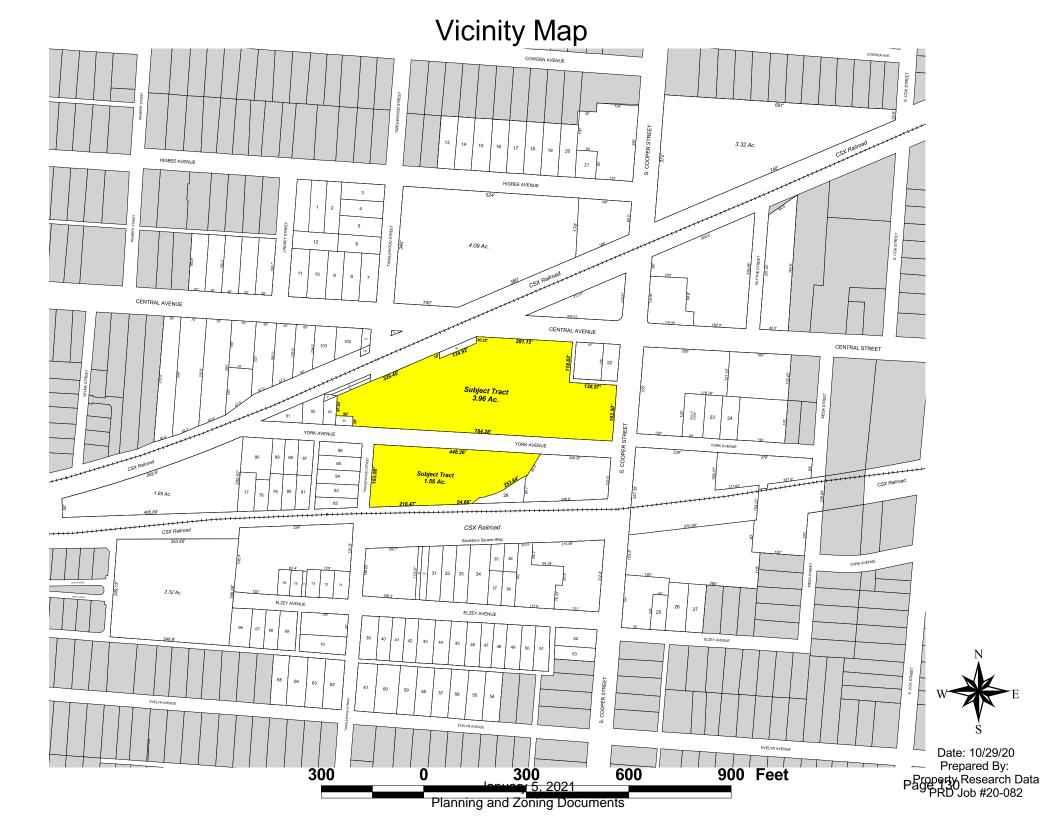
CENTRAL YARDSSITE ELEVATIONS

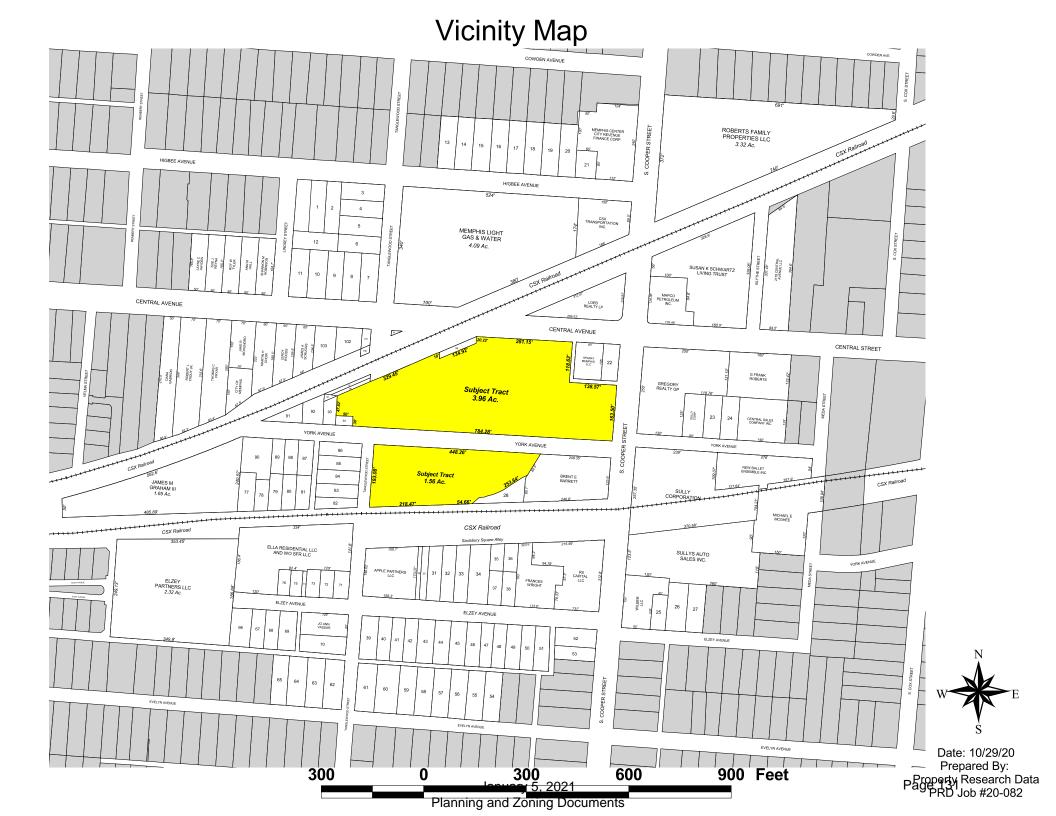
FLEMING architects Page 126











Lot #	Owners Name	Lot #	Owners Name
1	Macgillivray Laurie	51	Bryant Cowles Partnership
2	Thrasher Ronald C And Bart G Jones	52	Cowles Bernard C
3	Hanna Carole R	53	Cowles Bernard C
4	Gary Elizabeth B	54	Hipp June T
5	Deacon Lynda G	55	Coley Anthony W Jr.
6	Tonahill Rachel E	56	Fennel LLC
7	Blue Square Holdings VII LLC	57	Hine Alexis And Laura Hine (RS)
8	Curran Patrick B And Andrea D Graves	58	Elsinore LLC
9	Simmons-Carroll Kathryn B &	59	Shelton Matthew C
10	Stewart David X & Deborah J	60	Dykes Lillian E
11	McDaniel W C & Cornelia F	61	Masterson Brandee L
12	Lewis John	62	Fisher Katherine K Revocable Living
13	Carter Scott E Ii & Mandy L	63	Fisher Katherine K Revocable Living
14	Richardson Jordan Homes LLC	64	Ant Lion USA LLC
15	Carlisle Matthew And Melody Dernocoeur	65	Fay Brian J & Savannah K
16	Korneliussen Jon & Kristin M	66	Street William A III And Carol E Street
17	Stevenson Roger F	67	Fitzgerald Ronald G
18	Irvin Elin L	68	Fitz Rock Investments LLC
19	Gray Alex & Sarah	69	Melton Reba
20	Kmet David J & Jennifer M	70	Drago James
21	R And R Contracting Group LLC	71	Diep Dung H
22	Central Cooper Gateway Incorporated	72	Maness Terry
23	Garden District LLC	73	Elliott George S Trust
24	Garden District LLC	74	Elliott George S
25	Hardin Pamela A	75	Elliott George S Trust
26	Pardue Olivia C	76	795 Tanglewood LLC
27	Breckenridge Dan B & Kathy D	77	McKinney Shirley W & Doris Webb & Joseph
28	Union Railway Company	78	Walker Willie Jr.
29	City Of Memphis	79	Medlin Candace L
30	Gowen Kyle H	80	Medlin Candace L
31	Mooring Bobby And Martha K Mooring	81	Howard Emory And Lois Clayborne
32	Mooring Bobby R	82	Mooney Ceylon B
33	Seagle Jeanne	83	Central Exchange LLC
34	Glotfelter Nona L	84	Surratt Terry D & Sarah B
35	Lenti Virginia D	85	Ryan Charlie
36	Glotfelter W A	86	Ryan Charlie
37	Golden John F & Jean Seagle	87	Apple Partners LLC
38	Wright-Howard Frances	88	Apple Partners LLC
39	Herbers Christopher S	89	Goodwin Verneda And Kevin R Hutton
40	Mooring Bobby R	90	Graham James M III And Catherine C
41	• •	90 91	Apple Partners LLC
42	Mooring Bobby R	91	* *
43	CRJ Properties LLC McIntire John L	92	Union Railway Company New Testament Ministries
43 44		93 94	
	Marston Kimberly		Fitzgerald Ron
45 46	Austin William L & Elizabeth W	95 06	Union Railway Company
46 47	Harmon Tom	96 07	Union Railway Company
47	Rednour Benjamin W	97	NC & St. Louis Railroad Company
48	Riggs Mollie J	98	Union Railway Company
49 50	Harmon Tom	99	CSX Transportation Incorporated
50	Whittington Sandra P	100	NC & St. Louis Railroad Company

Lot # Owners Name

101 Eubanks James F & Debra102 Eubanks James F & Debra

Fournier Julie A

2178 Central Avenue LLC	795 Tanglewood LLC	Ant Lion USA LLC
1437 Central Avenue, Ste. 1200	6000 Poplar Avenue, Ste. 250	12 Kellaway Street
Memphis, TN 38104-4905	Memphis, TN 38119-3974	Fannie Bay, Australia 0820
Apple Partners LLC	Austin William L & Elizabeth W	Baker Mary L
99 Cherokee Drive	7321 E. Shelby Drive	2037 Higbee Avenue
Memphis, TN 38104-2605	Memphis, TN 38125-3507	Memphis, TN 38104-5355
Barrett Brent E	Blue Square Holdings VII LLC	Breckenridge Dan B & Kathy D
769 S. Cooper Street	2058 Central Avenue	2160 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104-5440	Memphis, TN 38104-5559
Bryant Cowles Partnership 243 N. McLean Boulevard Memphis, TN 38112-5318	Carlisle Matthew & Melody Dernocoeur 2090 Higbee Avenue Memphis, TN 38104-5336	Carter Scott E II & Mandy L 2078 Higbee Avenue Memphis, TN 38104-5336
Central Cooper Gateway Incorporated	Central Exchange LLC	Central Sales Company Inc
4257 Walnut Grove Road	45 Ansley Drive	2170 York Avenue
Memphis, TN 38117-2367	Newnan, GA 30263-7107	Memphis, TN 38104
Chow Martin H	City Of Memphis	Coley Anthony W Jr.
1242 Peabody Avenue	125 N. Main Street	2100 Evelyn Avenue
Memphis, TN 38104-3550	Memphis, TN 38103	Memphis, TN 38104-5416
Cooper York Development Co Inc.	Cowles Bernard C	CRJ Properties LLC
232 Southmill Drive	P O Box 42001	299 S. Walnut Bend Rd, Ste.100
Eads, TN 38028-6970	Memphis, TN 38174	Cordova, TN 38018-7281
CSX Transportation Incorporated 500 Water Street Jacksonville, FL 32202-4423	Curran Patrick & Andrea D Graves 2052 Central Avenue Memphi, TN 38104-5440	Deacon Lynda G 695 Tanglewood Street Memphis, TN 38104-5429
Diep Dung H	Drago James	Dykes Lillian E
2046 Elzey Avenue	4447 Westbrook	2076 Evelyn Avenue
Memphis, TN 38104-5410	Bartlett, TN 38135	Memphis, TN 38104-5416
Ella Residential LLC And Wo SFR 6000 Poplar Avenue, Ste. 250 Memphis, TN 38119-3974	Elliott George S 40 Burton Hills Blvd, Ste. 300 Nashville, TN 37215	Elliott George S Trust 40 Burton Hills Blvd, Apt. 300 Nashville, TN 37215

Elsinore LLC	Elzey Partners LLC	Eubanks James F & Debra
756 Ridge Lake Boulevard, Ste. 120	5851 Ridge Bend Road	1965 Edwards Mill Road
Memphis, TN 38120-9423	Memphis, TN 38120-9412	Germantown, TN 38139-4495
Fay Brian J & Savannah K 2044 Evelyn Avenue Memphis, TN 38104-5438	Fennel LLC 6250 Green Meadow Road Memphis, TN 38120-3101	Fisher Katherine K Revocable Living 5019 New Castle Road Memphis, TN 38117-5829
Fitz Rock Investments LLC	Fitzgerald Ron	Fitzgerald Ronald G
4028 Hilldale Avenue	4028 Hilldale Avenue	4028 Hilldale Avenue
Memphis, TN 38117-1512	Memphis, TN 38117-1512	Memphis, TN 38117-1512
Fournier Julie A	Fryar Thomas C & Brenda S	Gabrion Dana
1515 Auburn Woods Drive	2011 Central Avenue	99 S. Second Street, 2 nd Floor
Collierville, TN 38017-4866	Memphis, TN 38104-5261	Memphis, TN 38103-3027
Garden District LLC	Gary Elizabeth B	Glotfelter Nona L
5040 Sanderlin Avenue, Ste. 109	108 S. Gramery Place, Ste. 302	2100 Elzey Avenue
Memphis, TN 38117	Los Angeles, CA 90004	Memphis, TN 38104-5412
Glotfelter W A	Golden John F & Jean Seagle	Goodwin Verneda & Kevin Hutton
2100 Elzey Avenue	2100 Elzey Avenue	2037 York Avenue
Memphis, TN 38104-5412	Memphis, TN 38104	Memphis, TN 38104-5435
Gowen Kyle H	Graham James M III & Catherine	Gray Alex & Sarah
2086 Elzey Avenue	550 S. Cooper Street	2106 Higbee Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104-5336
Gregory Realty GP	Hall Ann M	Hanna Carole R
310 Germantown Bend Cove	2022 Central Avenue	689 Tanglewood Street
Cordova, TN 38018-4267	Memphis, TN 38104-5260	Memphis, TN 38104
Hardin Pamela A	Harmon Tom	Hayden Layne C & Brent Smoyer
2150 Elzey Avenue	8179 Clinton Way	2006 Central Avenue
Memphis, TN 38104-5559	Cordova, TN 38018	Memphis, TN 38104-5260
Herbers Christopher S	Hine Alexis And Laura Hine (RS)	Hipp June T
4530 Kings Park Road	2090 Evelyn Avenue	2104 Evelyn Avenue
Memphis, TN 38117-5430	Memphis, TN 38104-5416	Memphis, TN 38104

Howard Emory And Lois Clayborne	Irvin Elin L	Kmet David J & Jennifer M
2044 Saulsberry Place	2100 Higbee Avenue	2110 Higbee Avenue
Memphis, TN 38104	Memphis, TN 38104-5336	Memphis, TN 38104
Korneliussen Jon & Kristin M	Lenti Virginia D	Lewis John
2094 Higbee Avenue	2100 Elzey Avenue	700 Lindsey Street
Memphis, TN 38104-5336	Memphis, TN 38104-5412	Memphis, TN 38104-5400
Loeb Realty LP	Macgillivray Laurie	Maness Terry
P O Box 171247	2043 Higbee Avenue	2044 Elzey Avenue
Memphis, TN 38187-1247	Memphis, TN 38104-5355	Memphis, TN 38104-5410
Mapco Petroleum Incorporated	Marston Kimberly	Masterson Brandee L
1900 Dalrock Road	2089 Elzey Avenue	2068 Everlyn Avenue
Rowlett, TX 75088-5526	Memphis, TN 38104	Memphis, TN 38104-5416
McDaniel W C & Cornelia F	McGhee Michael E	McIntire John L
2038 Central Avenue	781 Meda Street	2085 Elzey Avenue
Memphis, TN 38104-5440	Memphis, TN 38104-5534	Memphis, TN 38104-5413
McKinney Shirley W & Doris Webb	Medlin Candace L	Melton Reba
4091 Cecil Drive	701 Charingworth Court	2045 Elzey Avenue
Memphis, TN 38116-6171	Westminster, MD 21158-3052	Memphis, TN 38104
Memphis Center City Revenue Finance Corp 663 S. Cooper Street Memphis, TN 38104-5359	Memphis Light Gas & Water 712 S. Cooper Street Memphis, TN 38104-5401	Mohundro Jake R & Jeanine H 2025 Central Avenue Memphis, TN 38104-5261
Mooney Ceylon B	Mooring Bobby & Martha Mooring	Mooring Bobby R
1888 Walker Avenue	1779 Kirby Parkway, Ste. 1	6722 River Oak View Drive
Memphis, TN 38114-1755	Germantown, TN 38138	Memphis, TN 38120-3332
NC & St.Louis Railroad Company	New Ballet Ensemble Incorporated	New Testament Ministries
General Delivery	2157 York Avenue	628 Semmes
Memphis, TN 38101-9999	Memphis, TN 38104	Memphis, TN 38111
Pardue Olivia C	R And R Contracting Group LLC	Rednour Benjamin W
4064 S. Lakewood Drive	8566 Macon Road	2099 Elzey Avenue
Memphis, TN 38128-4426	Cordova, TN 38018-1641	Memphis, TN 38104

Reyna Sue J And Young Choi	Richardson Jordan Homes LLC	Riggs Mollie J
2012 Central Avenue	7 Morningside Drive	2103 Elzey Avenue
Memphis, TN 38104-5260	Memphis, TN 38104-3037	Memphis, TN 38104-5413
Roberets Family Properties LLC	Roberts G Frank & Mindy C	Robinson Shannon M
P O Box 1603	2215 Central Avenue	2026 Central Avenue
Memphis, TN 38101-1603	Memphis, TN 38104-5505	Memphis, TN 38104-5260
RS Capital LLC	Ryan Charlie	Schwartz Susan K Living Trust
792 S. Cooper Street	4257 Walnut Grove Road	2318 Edgewood Park Cove
Memphis, TN 38104-2727	Memphis, TN 38117-2367	Memphis, TN 38104
Scruggs James A	Seagle Jeanne	Shelton Matthew C
2041 Central Avenue	2098 Elzey Avenue	2080 Evelyn Avenue
Memphis, TN 38104-5261	Memphis, TN 38104-5412	Memphis, TN 38104-5416
Simmons-Carroll Kathryn B & 2048 Central Avenue Memphis, TN 38104-5540	Sparky Memphis LLC 2724 Central Avenue Memphis, TN 38111-1811	Stevenson Roger F 2098 Higbee Avenue Memphis, TN 38104-5336
Stewart David X & Deborah J	Street William A III & Carol Street	Sully Corporation
2042 Central Avenue	7938 US Highway 70	792 S. Cooper Street
Memphis, TN 38104-5440	Memphis, TN 38133-1306	Memphis, TN 38104-5406
Sullys Auto Sales Incorporated	Surratt Terry D & Sarah B	Thrasher Ronald & Bart Jones
792 S. Cooper Street	7978 Winding Creek Drive	2047 Higbee Avenue
Memphis, TN 38104-5406	Germantown, TN 38138-7124	Memphis, TN 38104-5355
Tonahill Rachel E	Trouy Robert L Jr & Sarah S	Tyler Roy W
703 Tanglewood Street	2007 Central Avenue	2020 Central Avenue
Memphis, TN 38104-5429	Memphis, TN 38104-5261	Memphis, TN 38104
Union Railway Company	Vassar Jo Ann	Walker Willie Jr.
1400 Douglas Street Stop 1640	811 Tanglewood Street	3299 Lucibill Road
Omaha, NE 68179	Memphis, TN 38104-5425	Memphis, TN 38116
Whittington Sandra P	Wilber LLC	Woods Leroy & Regina R
2097 Firefly Cove	794 S. Cooper Street	2035 Central Avenue
Memphis, TN 38119-5509	Memphis, TN 38104-5406	Memphis, TN 38104-5261

Wright Frances 495 Wolf View Cove Cordova, TN 38018-7630 Wright-Howard Frances 495 Wolf View Cove Cordova, TN 38018-7630

Tenant	Tenant	Tenant
2001 Central Avenue	2006 Central Avenue	2007 Central Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2011 Central Avenue	2012 Central Avenue	2020 Central Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2022 Central Avenue	2025 Central Avenue	2025 York Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2026 Central Avenue	2028 Saulsbury Place	2029 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2029 York Avenue	2031 Central Avenue	2031 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2035 Central Avenue	2035 Elzey Avenue	2036 York Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2036 York Avenue	2037 Elzey Avenue	2037 Higbee Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2037 York Avenue	2038 Central Avenue	2038 Saulsbury Place
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2039 York Avenue	2040 Elzey Avenue	2040 Saulsbury Place
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2041 Central Avenue	2041 York Avenue	2042 Central Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104

Tenant	Tenant	Tenant
2042 Elzey Avenue	2043 Higbee Avenue	2044 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2044 Evelyn Avenue	2044 Saulsbury Place	2045 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2046 Elzey Avenue	2046 York Avenue	2047 Central Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2047 Higbee Avenue	2048 Central Avenue	2050 Evelyn Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2052 Central Avenue	2053 Central Avenue	2054 Evelyn Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2058 Central Avenue	2058 Evelyn Avenue	2068 Evelyn Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2069 Elzey Avenue	2073 Elzey Avenue	2076 Evelyn Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2078 Higbee Avenue	2080 Evelyn Avenue	2081 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2082 Elzey Avenue	2084 Higbee Avenue	2085 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2086 Elzey Avenue	2086 Evelyn Avenue	2088 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104

Tenant	Tenant	Tenant
2089 Elzey Avenue	2090 Evelyn Avenue	2090 Higbee Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2092 Evelyn Avenue	2094 Higbee Avenue	2095 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2096 Elzey Avenue	2097 Elzey Avenue	2098 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2098 Higbee Avenue	2099 Elzey Avenue	2100 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2100 Evelyn Avenue	2100 Higbee Avenue	2103 Elzey Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2104 Elzey Avenue	2104 Evelyn Avenue	2106 Higbee Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2107 Elzey Avenue	2109 Elzey Avenue	2110 Higbee Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2114 Elzey Avenue	2118 Higbee Avenue	2120 Central Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2123 Central Avenue	2129 Central Avenue	2142 Central Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104
Tenant	Tenant	Tenant
2150 Elzey Avenue	2151 York Avenue	2151 York Avenue
Memphis, TN 38104	Memphis, TN 38104	Memphis, TN 38104

Tenant Tenant Tenant 2152 Elzey Avenue 2157 York Avenue 2159 Central Avenue Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 2160 York Avenue 2160 Elzey Avenue 2164 York Avenue Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 2166 Central Avenue 2169 Central Avenue 2170 York Avenue Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 2178 Central Avenue 663 S. Cooper Street 670 S. Cooper Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 689 Tanglewood Street 691 Tanglewood Street 695 Tanglewood Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 700 Lindsey Street 703 Tanglewood Street 712 S. Cooper Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 765 Tanglewood Street 767 Tanglewood Street 769 S. Cooper Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 771 Tanglewood Street 775 Tanglewood Street 781 Meda Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 792 S. Cooper Street 794 S. Cooper Street 795 S. Cooper Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104 Tenant Tenant Tenant 795 Tanglewood Street 811 Tanglewood Street 811 S. Cooper Street Memphis, TN 38104 Memphis, TN 38104 Memphis, TN 38104

Tenant 817 S. Cooper Street Memphis, TN 38104 Tenant 819 Tanglewood Street Memphis, TN 38104

RE&D Investments, LLC 232 Southmill Drive Eads, TN 38028	Scott Industries, Inc., Robert Black One Commerce Square 40 S. Main Street, Suite 2900 Memphis, TN 38103-5529	
The Reaves Firm 6800 Poplar Ave., Suite 101 Memphis, TN 38138 Attn: Kay Maynard	Fleming Architects 5101 Wheelis Drive, Suite 215 Memphis, TN 38117 Scott Fleming	Dedrick Brittenum, Jr. 3385 Airways Blvd., Suite 229 Memphis, TN 38116
Councilwoman Jamita Swearengen Memphis City Council District 4 125 N. Main Street Room 514 Memphis, TN 38103 Councilman JB Smiley, Jr. Memphis City Council Super Dist 8-1 125 N. Main Street Room 514	Councilwoman Cheyenne Johnson Memphis City Council Super Dist 8-2 125 N. Main Street Room 514	Councilman Martavius Jones Memphis City Council Super Dist 8-3 125 N. Main Street Room 514
Memphis, TN 38103	Memphis, TN 38103	Memphis, TN 38103
Cooper-Young Community Assoc. Kristan Huntley, President 2298 Young Avenue Memphis, TN 38104	Idlewild Neighborhood Assoc. Mary Baker, President 2037 Higbee Avenue Memphis, TN 38104	Central Gardens Assoc. c/o President P.O. Box 41382 Memphis, TN 38174

Brittenum

Law pllc

ATTORNEY AT LAW
Airways Professional Center – Aerotropolis
3385 Airways Boulevard, Suite 229
Memphis, Tennessee 38116 USA
Telephone 901.347.3978
Facsimile 901.800.1927
db@brittenumlaw.com

30 October 2020

Josh Whitehead, AICP
Planning Director / Administrator
Memphis & Shelby County Office of Planning and Development
City Hall
125 North Main Street, Suite 476
Memphis, TN 38103

RE: Central Yards
Planned Development Southwest of Intersection of Central Avenue & Cooper Street

Dear Administrator Whitehead:

I represent the Kemker companies in a planned development application for a site bounded by the abandoned railroad right of way on the south, the railroad tracks on the west, Central Avenue on the north and Cooper Street on the east. The subject property is currently zoned EMP and was a light industrial zone for many decades. The site does not include the parcel at the immediate southwest corner of Central Avenue and Cooper Street. Enclosed is the application with supporting documents for staff review and recommendation, LUCB consideration and recommendation and City Council action. The application is filed to be heard by the LUCB on Thursday, 10 December 2020.

The applicant is seeking approval for a concept to redevelop the above tract as a mixed-use destination community. A site of this size is rare inside the mid-town overlay and the assemblage of parcels occurred over several years. The development will be anchored by 350+ units of multi-family apartments in buildings on the north side and south side of York Avenue. The plan calls for approximately 57,000 square feet of retail, office and flex space. All uses will be served by two garages located on the north side and south side of York Avenue which will also be available for public parking.

The Memphis 3.0 Comprehensive Plan for this area recommends planning action to encourage reinvestment and development to provide residential, retail and services to the surrounding community and beyond. As depicted on the site plan, the development will dedicate a common space on the northeast corner of York Avenue as plaza with green space. Upon approval, this development will serve as a preferred neighborhood place for living in the midtown area.

The existing uses in the vicinity are comprised of single-family residential west of the railroad tracks, employment zone and public park space to the north, retail and restaurant uses to the east and single-family residential south of the abandoned railroad right of way. The buildings have been designed with the surrounding neighborhood in mind and to promote an active, urban environment. Since the site is situated between two railroad lines, the development provides a smooth transition from the single family residential beyond the rail lines to the commercial uses to the east across Cooper Street.

The professional consultants associated with the development are:

Fleming Architects, Memphis
The Reaves Firm, Memphis
Dr. Martin Lipinski, Professor, Memphis
Dexter Muller, Memphis
The Carter Malone Group, Memphis

The planning objectives of the applicant is to provide a comfortable, attractive community that blends into the fabric of the Central / Cooper neighborhood for people seeking the unique mid-town Memphis experience. The primary approach is to keep the residential uses in mind by becoming a good neighbor to those currently living in the area. The applicant has incorporated strategic placement aspects in keeping with the area and will continue to seek input to make this development a success for the neighborhood and the developers.

Thank you for the time to review the application and setting it for hearing before the LUCB. On behalf of the applicants and the entire development team, support for approval is requested for this application. Should you have questions or comments, please advise. I remain,

Very truly yours,

Brittenum Law pllc

Dedrick Brittenum, Jr.

enclosure



Shelby County Tennessee

Shelandra Y Ford

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.



19098911

09/24/2019 - 10:00:17 AM

1 PGS	<u> </u>
ALONZO 1923038 - 19098911	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	5.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	7.00

SHELANDRA Y FORD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE





APPLICATION FOR REGISTRATION **OF ASSUMED NAME**



Tre Hargett Secretary of State **Division of Business Services** Department of State

State of Tennessee 312 Rosa L. Parks AVE, 6th FL Nashville, TN 37243-1102 (615) 741-2286

Filing Fee: \$20.00

For Office Use Only -FILED-

Amendment # 005193352

Pursuant to the Tennessee Business Corporation Act, Tennessee Nonprofit Corporation Act, Tennessee Limited Liability Company Act, Tennessee Revised Limited Liability Company Act, or the Tennessee Revised Uniform Partnership Act, this application for registration of an assumed name is submitted to the Tennessee Secretary of State.

1. The Secretary of State Control Number is: 000007516 and the true name of the business entity is:

ALBERT COOK DEVELOPMENT COMPANY, INCORPORATED

2. The state or country of organization is:

TENNESSEE

- 3. The business entity intends to transact business under an assumed name.
- 4. The assumed name the business entity proposes to use is:

COOPER YORK DEVELOPMENT COMPANY, INC.

The assumed name must satisfy the statutory requirements for that type of entity.

09/09/2019

Electronic

Signature Date

Signature

ATTORNEY

J. MICHAEL MURPHY

Signer's Capacity

Name (typed or printed)

Note: Pursuant to T.C.A. § 10-7-503 all information on this form is public record.

RETURN TO

Murphy, DeZonia & Webb 6389 Quail Hollow Rd. Memphis, TN 38120

SS-4230 (Rev. 03/15)

RDA 2458



Shelby County Tennessee

Shelandra Y Ford

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.



19100380

09/26/2019 - 02:37:20 PM

6 PGS	1	
CHRISTINAM 1924599 - 19100380		
VALUE	1	1650000.00
MORTGAGE TAX		0.00
TRANSFER TAX		6105.00
RECORDING FEE	ı	30.00
DP FEE	;	2.00
REGISTER'S FEE	i	1.00
TOTAL AMOUNT	1	6138.00

SHELANDRA Y FORD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

PREPARED BY: Home Surety Title & Escrow, LLC, 5583 Murray Road, Suite 120, Memphis, TN 38119, (901) 737-2100, File No.: 192410

WARRANTY DEED

Murphy, DeZonia & Webb 6389 Quail Hollow Rd. Memphis, IN 38120

THIS INDENTURE, made and entered as of this the 20th day of September, 2019 by and between:

John David Ballinger, Trustee of the John David Ballinger Revocable Living Trust dated July 11, 2012 (3/5), John B. Barnett (1/5) and Kimberly Ballinger (1/5), party of the first part, and

RE&D Investments LLC, party of the second part,

For and in consideration of One Million Six Hundred Fifty Thousand and 00/100 Dollars (\$1,650,000.00), cash in hand paid by the party of the second part, hereinafter called GRANTEES, and other good and valuable considerations, the receipt of which is hereby acknowledged, the party of the first part, hereinafter called the GRANTORS, have bargained and sold, and by these presents do transfer and convey unto the GRANTEES, their heirs and assigns, a certain tract or parcel of land of Shelby County State of Tennessee, described as follows, to-wit:

Parcel 1: 031133 00001

Part of Lot No. 49 of E.E. Meachum's Copper and Central Avenue Place Subdivision as shown on plat of record in Plat Book 4, Page 99 and 100, of the Register's Office of Shelby County, Tennessee, more particularly described as follows:

Commencing at the intersection of the south line of York Avenue and the east line of Tanglewood Street; running thence eastwardly with the south line of York Avenue 115 feet to the west line of a portion of said Lot heretofore conveyed by W.L Sharpe and wife to Louise M. Price by Warranty Deed dated March 5th, 1953, and recorded in Book 3273, Page 45, in the said Register's Office; thence southwardly parallel with the east line of Tanglewood Street 40 feet to the north line of Lot 48 of said Subdivision; thence westwardly parallel with the north line of York Avenue 115 feet to the east line of Tanglewood Street; thence northwardly with said east line 40 feet to the point of beginning, more or less.

Being the same property conveyed to Clifford Barnett and wife, Mae H. Barnett by way of warranty deed of record on May 17, 1989 at Instrument Number N27035 in the Register's Office of Shelby County, Tennessee

Being the same property conveyed to Mae H. Barnett by Quit Claim Deed of record on January 12, 1989 at Instrument Number AW4799 in the Register's Office of Shelby County, Tennessee. The same Mae H. Barnett died intestate, a resident of Shelby County Tennessee on or about February 6, 2009 survived by her five children: Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart and Kimberly Everett as evidence by Affidavits of Heirship filed for record on June 20, 2013 at Instrument Number 13073574, 13073572 and 13073573 in the Register's Office of Shelby County Tennessee.

Clifford B. Barnett, Deborah B. Slocum and Paula A. Smithhart conveyed their interest in said property to John David Ballinger, Trustee of the John David Ballinger Revocable Trust dated July 11, 2012 by way of Warranty Deed filed for record on June 26, 2019 at Instrument Number 201906260063417 in the Register's Office of Shelby County, Tennessee.

Parcel 2: 031133 00002

Two Parcels Described as follows:

PARCEL A

Lots 43, 44, 45, 46, 47, 48 and east 10 feet of Lot 49, and part of alley lying west of Lot 44, in Cooper and Central Ave Subdivision, of record in Plat Book 4, Pages 99 and 100, of the Register's Office of Shelby County, Tennessee being more particularly described as follows:

Beginning at an iron pin in the south line of York Ave 459.9 feet west of the west line of Cooper Avenue (75 feet wide), said pin being the north corner of Lots 42 and 43 of said subdivision; thence with line dividing Lots 42 and 43 southwardly 172.4 feet to the south corner of Lots 42 and 43 in the north line of Union Railroad property; thence with north line of Union Railroad property westwardly 217.9 feet to an old iron pin in the east line of Tanglewood St., the southwest corner of Lot 45; thence with the east line of Tanglewood Street northwardly 153 feet to an old iron pin the west corner of Lots 48 and 49; thence with the line of Lots 48 and 49 eastwardly 115 feet to an iron pin; thence parallel to Tanglewood Street northwardly 40 feet to an iron pin in the south line of York Avenue; thence with the south line of York Avenue eastwardly 10 feet to the west line of an alley; thence with the west line of said alley southwardly 40 feet to the corner of Lots 48 and 49; thence parallel to York Avenue eastwardly 12 feet to a point; thence with the east line of said alley northwardly 40 feet to the northwest corner of Lot 44 in the south line of York Avenue; thence with the south line of York Avenue eastwardly 80 feet to the point of beginning.

DARCEI R

Beginning at a point in the south line of York Avenue 125 feet east of Tanglewood Street, said point is the northeast corner of Lot 49 of Cooper and Central Avenue Subdivision, thence parallel with the east line of Tanglewood Street and the east line of Lots 49, 48, 47, 46, and 45 a distance of 181.13 feet to a point in the Union Railway right-of-way, thence with the north line of said railroad eastwardly 12.05 feet to a point,

the southwest corner of Lot 44 of said subdivision, thence with the west line of Lot 44 northwardly 179.99 feet to a point in the south line of York Avenue, the northwest corner of Lot 44, thence with the south line of York Avenue westwardly 12 feet to the beginning.

Being the same property conveyed to Memphis Automatic Ice Machine Company, Inc. a Tennessee Corporation by way of warranty deed of record on August 21, 1968 at Instrument Number E4-4882 in the Register's Office of Shelby County, Tennessee.

Being the same property conveyed to Mae H. Barnett by way of Quit Claim Deed of record on August 28, 2007 at Instrument Number 07134777 in the Register's Office of Shelby County, Tennessee. The same Mae H. Barnett died intestate, a resident of Shelby County Tennessee on or about February 6, 2009 survived by her five children: Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart and Kimberly Everett as evidence by Affidavits of Heirship filed for record on June 20, 2013 at Instrument Number 13073574, 13073572 and 13073573 in the Register's Office of Shelby County Tennessee.

Barnett Supply Company, Inc., a Tennessee Corporation, as the Successor in Interest to Memphis Automatic Ice Machine Company, Inc., a Tennessee Corporation, executed a Quit Claim Deed filed for record on June 20, 2013 at Instrument Number 13073574 in the Register's Office of Shelby County Tennessee to convey any interest still remaining with the company to Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart, and Kimberly D. Everett.

Clifford B. Barnett, Deborah B. Slocum and Paula A. Smithhart conveyed their interest in said property to John David Ballinger, Trustee of the John David Ballinger Revocable Trust dated July 11, 2012 by way of Warranty Deed filed for record on June 26, 2019 at Instrument Number 201906260063417 in the Register's Office of Shelby County, Tennessee.

Parcel 3: 031133 00003; 2093 York Avenue

Lot 42 and all that part of Lots 40 and 41 of E.E. Meachum's Cooper and Central Place Subdivision as shown on plat of record in Plat Book 4, Pages 49 and 99 in the Register's Office of Shelby County, Tennessee, lying north and northwest of a 100 foot right-of-way of the Union Railway Company and said Company's spur track, described as:

Beginning at an iron pin in the south line of York Ave. 217 feet eastwardly from the east line of Tanglewood St., said point begin the northeast corner of Lot 43 of said subdivision; thence eastwardly along the south line of York Ave 120 feet to northwest corner of Lot 39 of said subdivision; thence southwardly along the west line of Lot 39, a distance of 136.12 feet to an iron pin, the northwesterly line of Union Railway Company's spur track, said pin being 9 feet northwardly from the center line of said spur track, as measured at right angles to said center line; thence southwestwardly along a curve to the right, 9 feet from and parallel to the center line of said spur track, 74.4 feet to an iron pin in the northerly line of Union Railway's 100 foot right-of-way; thence westwardly along said northerly right-of-way 53.82 feet to an iron pin at the southeast corner of said Lot 43; thence northwardly along the east line of said Lot 43, a distance of 173.4 feet to the point of beginning.

Being the same property conveyed to Memphis Automatic Ice Machine Company, Inc. a Tennessee Corporation by way of warranty deed of record on May 24, 1965 at Book 5624, Page 81 in the Register's Office of Shelby County, Tennessee.

Being the same property conveyed to Mae H. Barnett by way of Quit Claim Deed of record on August 28, 2007 at Instrument Number 07134778 in the Register's Office of Shelby County, Tennessee. The same Mae H. Barnett died intestate, a resident of Shelby County Tennessee on or about February 6, 2009 survived by her five children: Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart and Kimberly Everett as evidence by Affidavits of Heirship filed for record on June 20, 2013 at Instrument Number 13073574, 13073572 and 13073573 in the Register's Office of Shelby County Tennessee.

Barnett Supply Company, Inc., a Tennessee Corporation, as the Successor in Interest to Memphis Automatic Ice Machine Company, Inc., a Tennessee Corporation, executed a Quit Claim Deed filed for record on June 20, 2013 at Instrument Number 13073574 in the Register's Office of Shelby County Tennessee to convey any interest still remaining with the company to Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart, and Kimberly D. Everett.

Clifford B. Barnett, Deborah B. Slocum and Paula A. Smithhart conveyed their interest in said property to John David Ballinger, Trustee of the John David Ballinger Revocable Trust dated July 11, 2012 by way of Warranty Deed filed for record on June 26, 2019 at Instrument Number 201906260063417 in the Register's Office of Shelby County, Tennessee.

Parcel 4: 031133 00004C

Part of Lots 37, 38, and 39 of E.E. Meachum's Cooper and Central Place Subdivision as shown and designated on plat of subdivision of record in Plat Book 4, Pages 49 and 99, in the Register's Office of Shelby County, Tennessee, being more particularly described as follows:

Beginning at a point in the south line of York Avenue 442.15 feet, more or less, eastwardly from the east line of Tanglewood Street, said point being in the northwesterly right of way line of Union Railway Company's spur track, said point also being 9 feet northwestwardly from the center line of said spur track

as measured at right angles thereto; thence southwestwardly along a curve to the right, 9 feet from and parallel to the center line of said spur track to a point in the west line of Lot 39 of said subdivision, said point being 74.4 feet northeastwardly from the northerly line of Union Railway Company's 100 foot right of way as measured along the northwesterly line of said spur track right of way line, corner for the lands conveyed to R.H. Spangler and wife, Bobbie P. Spangler, by warranty deed of record in Book 4480, Page 514 of said Register's Office thence northwardly along the east line of Spangler's land, said line being the dividing line between Lots 39 and 40 of said subdivision a distance of 136.12 feet, more or less, to a point in the south line of York Avenue, Spangler's northeast corner; thence eastwardly along the south line of York Avenue a distance of 111.25 feet, more of less, to the point of beginning; and being the same property conveyed to Edward Larimore Taylor and wife, Esmond Taylor, by warranty deed dated June 16, 1961 and recorded in Book 4519, Page 4 of the Registers's Office of Shelby County, Tennessee.

Being the same property conveyed to Memphis Automatic Ice Machine Company, Inc. a Tennessee Corporation by way of warranty deed of record on June 7, 1965 at Book 5630 Page 73 in the Register's Office of Shelby County, Tennessee.

Being the same property conveyed to Mae H. Barnett by way of Quit Claim Deed of Record on August 28, 2007 at Instrument Number 07134779 in the Register's Office of Shelby County, Tennessee.

Being the same property conveyed to Mae H. Barnett by way of Quit Claim Deed of record on August 28, 2007 at Instrument Number 07134779 in the Register's Office of Shelby County, Tennessee. The same Mae H. Barnett died intestate, a resident of Shelby County Tennessee on or about February 6, 2009 survived by her five children: Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart and Kimberly Everett as evidence by Affidavits of Heirship filed for record on June 20, 2013 at Instrument Number 13073574, 13073572 and 13073573 in the Register's Office of Shelby County Tennessee.

Barnett Supply Company, Inc., a Tennessee Corporation, as the Successor in Interest to Memphis Automatic Ice Machine Company, Inc., a Tennessee Corporation, executed a Quit Claim Deed filed for record on June 20, 2013 at Instrument Number 13073574 in the Register's Office of Shelby County Tennessee to convey any interest still remaining with the company to Clifford B. Barnett, John B. Barnett, Deborah B. Slocum, Paula A. Smithhart, and Kimberly D. Everett.

Clifford B. Barnett, Deborah B. Slocum and Paula A. Smithhart conveyed their interest in said property to John David Ballinger, Trustee of the John David Ballinger Revocable Trust dated July 11, 2012 by way of Warranty Deed filed for record on June 26, 2019 at Instrument Number 201906260063417 in the Register's Office of Shelby County, Tennessee.

Kimberly D. Everett is one and the same as Kimberly Ballinger.

Grantors covenant that the aforedescribed real property is not grantors' homestead
This conveyance is made subject to:

2020 City of Memphis and 2009 Shelby County taxes, liens, not yet due and payable.

2020

Subdivision Restrictions, Building Lines and Easements of record recorded at Plat Book 4, Page 49 and Plat Book 4, Page 99 as shown in the Register's Office of Shelby County, Tennessee.

Spur Track Easements of Record at Book 1107, Page 638 and Book 1163, Page 416 as shown in the Register's Office of Shelby County, Tennessee.

Deed of Railroad Right of Way at Book 317, Page 246, abandoned at Book 2727, Page 97 as shown in the Register's Office of Shelby County, Tennessee.

This document was prepared from information furnished by the parties herein for which the preparer assumes no responsibility.

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEES, their heirs and assigns forever; and we do covenant with the said GRANTEES that we are lawfully seized and possessed of said land in fee simple, have a good right to convey it and the same is unencumbered, unless otherwise herein set out; and we do further covenant and bind ourselves, our heirs and representatives, to warrant and forever defend the title to the said land to the said GRANTEES, their heirs and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the signature of the party of the first part the day and year first above written.

John David Ballinger Revocable Living Trust dated July 11, 2012

Trustee

John B. Barnett

Kimberly Ballinger

ohn David Ballinger,

State of Tennessee

County of Shelby

Before me the undersigned, a Notary Public personally appeared John David Ballinger as Trustee of the John David Ballinger Revocable Living Trust dated July 11, 2012, to me known to be the person described in and who executed the foregoing instrument, and who acknowledged the executed of the same as his free act and deed.

WITNESS my hand and seal this _____ day of September, 2019.

Notary Public

My Commission Expires:



State of Tennessee

County of Shelby

Personally appeared before me, the undersigned Notary Public in and for said State and County, John B. Barnett, the within bargainor(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person(s) executed the within instrument for the purposes therein contained.

WITNESS my hand and seal-this

day of September, 2019.

qth

Notary Public My Commission Expires



State of Tennessee

County of Shelby

Personally appeared before me, the undersigned Notary Public in and for said State and County, Kimberly Ballinger, the within bargainor(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person(s) executed the within instrument for the purposes therein contained.

WITNESS my hand and seal this 20 day of September, 2019.

Notary Public

My Commission Expires:



I, or we, hereby swear or affirm that, to the best of Affiant's knowledge, information, and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$1,650,000.00, which amount if equal to or greater than the amount which the property would command at a fair and voluntary sale.

Affiant

Subscribed and sworn to before me this the 26th

_ day of September 2019.

Notary Public

My Commission Expires:



Tax ID No.: 031133 00001

Property Address 0 York Ave.

Memphis, TN 38104

PROPERTY ADDRESS:

2093 York Avenue Memphis, TN 38104

TAX PARCEL NO.:

03113300001, 03113300002

NAME AND ADDRESS OF

PROPERTY OWNER:

RE&D INVESTMENTS, LLC

232 Southmill Drive Eads, TN 38028

MAIL TAX BILLS TO:

RE&D INVESTMENTS, LLC

232 Southmill Drive Eads, TN 38028

RETURN TO:

J. Michael Murphy, Attorney

6389 N. Quail Hollow Road, Ste. 102

Memphis, TN 38120

TG#

7853292

MD&W File No.

190634

Warranty Deed Attachment (1/2010)



This Instrument prepared by: Nat W. Parham, Attv. at Law, 100 N. Main Bldg., Memphis, Tenn.

THIS INDENTURE, made and entered into this 28th day of August, 1970

by and between H. G.HALL, SR. and H.G.HALL, JR, parties F6 6569 of the first part, and SCOTT INDUSTRIES, INC., a Tennessee Corporation, party 3

	, of the seco	nd part
WITNESSETH: That for the consideration hereinafter expressed the said part 168	of t	he fuet
part ha Y6 bargained and sold and do hereby bargain, sell, convey as	nd confirm unto t	the said
part y of the second part the following described real estate, situated and being in	.	
County ofShelbyState ofTennessee t	to-wit:	

PARCEL NO. I:

Part of Lots 13, 14, 15, 16, and 17, of E. E. Meacham's Cooper and Central Avenue Place Subdivision, as shown on plat of record in Plat Book 4, Page 99 and 100, in the Register's Office, Shelby County, Tennossee.

BEGINNING at the point of intersection of the north line of York Avenue and the east line of Tanglewood Street; running thence eastwardly with the north line of York Avenue 62.5 feet to a point; running thence northwardly parallel with the east line of Tanglewood Street 180 feet more or less, to a point in the southerly line of the Union Railroad Company's right-of-way; thence southwestwardly with the said southerly line of the Union Railroad Company's right-of-way, 64 feet, more or less, to a point where said southerly line of the Union Railroad Company's right-of-way intersects the east line of Tanglewood Street; thence southwardly with the east line of Tanglewood Street; thence less, to the point of beginning.

A portion of Lot 10 of the Cooper and Central Avenue Subdivision, Memphis, Shelby County, Tennessee, more particularly described as follows:

BECINNING at the intersecting westerly line of Tanglewood Street, measure westwardly, along the southerly line of Lot 10 of the Cooper and Central Avenue Subdivision of Kemphis, Tennessee, 89.4 feet, more or less, to a point 50 feet distant southeastwardly, at right angles, from the southerly main track of the Nashville, Chattanooga & St. Louis Railway; thence northeastwardly, parallel to said southerly main tract, 100.8 feet, more or less, to the westerly line of Tanglewood Street; the southwardly, along said westerly line of Tanglewood Street; the more or less, to the point of beginning, containing 1958 square feet, more or less.

PARCEL NO.3

A portion of Lots 11 and 12 of the Cooper and Central Avenue Subdivision of Memphis, Shelby County, Tennessee, more particularly described as follows:

BEGINNING at a point in the northerly line of York Avenue 50 feet distant southeastwardly, at right angles, from the southerly main track of the Nashville, Chattanooga & St. Louis, Railway, measure northeastwardly; parallel to said main tract, 119.0 feet; thence southwardly, parallel to the westerly line of Tanglewood Street, 51.7 feet, more or less, to the northerly line of York Avenue; thence westwardly, along said northerly line of York Avenue, 105.5 feet, more or less, to the point of beginning, containing 2727 square feet more or less.



F6 6569

TO HAVE AND TO HOLD The aforesaid real estate, together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said part <u>y</u> of the second part, <u>its here</u> and assigns in fee simple forever.

And the said part 188 of the first part do hereby covenant with the said part y of the second part that they are lawfully seized in fee of the aforedescribed real estate; that they have a good right to sell and convey the same; that the same is unencumbered except for 1970 County taxes and Utility easement of record in Book 4466, Page 273 in the Register's Office of Shelby County, Tennessee.

and that the title and quiet possession thereto they will warrant and forever defend against the lawful claims of all persons.

THE CONSIDERATION for this conveyance is as follows:

TEN DOLLARS (\$10.00) cash in hand paid and other good and valuable considerations, the receipt of all of which is hereby acknowledged.

The above described property is the same property conveyed to the grantors herein by warranty deed of record in Book 3279, Page 470 in the Register's Office of Shelby County, Tennessee.

WITNESS the signature 8 of the said part 168 of the first part the day and year first above written

H. G. HALL, SR.

January 5, 2021
Planning and Zoning Documents



•	STATE OF TEN		•		F6 650	39	
	Ón this	28thday of	August		19. 70, before	me, a dousty Public in and	l for said State and
	County, duly con	unitationed and	qualified, personally	appeared	H* O* H	ALL, SR. and	**************************************
		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		, 007-00-00-0 12-221-17-72-07-7	н. с. н	ALL, JR.	***************************************
	to me known to	be the person	Sde	eribed in and	who executed the	foregoing instrument, and	acknowledged that
معاد	tbeYei	recuted the sun	ne atheir free	act and deed.			
سد. ۲۰۰	T WITNESS	my hand and I	Notarial Seal at office	the day and	year above written.		
š.,	NOTARL	in .			EnOus	M. Q	Notary Public.
	My commission	rapires 7 f	4 day of 3	uly			
	Address of Prop	erty	vacant_proj	erty			
	Mailing Address	for Tax Noti	ces P	0. Box	12232, Memp	his, Tennessee	
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	ENTRY HIGHTH M	AR	Toos	3 E	OTAL .	SHELLY COUNTY	7 L
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	•						
	STATE OF TEN	NESSEE. COU	NTY OF SHELBY				
	i, or we, hereby : for this transfer greater than the :	wear or affin or value of the grount which the	m that to the peet o he property transfer he property transfer	f affiants kno red, whichever red would stamp	wledge, information is greater is, \$_iequivalent	n, and pelief, the actual of 15,000 which amount is velocity sale.	consideration equal to or
	يرتون ومعنوري والمتعارب		• · · · ·		Holoc	k	
	Subscribed and sec		m this the 7-8 d	r ot	19 70		

January 5, 2021 Planning and Zoning Documents

PY COMMISSION EXPINES QUE 9 1971,

This Instrument Prepared by; William L. Embry, Esquire 294 Washington Avenue Memphis, Tennessee 38103

GU 6198

QUIT CLAIM DEED

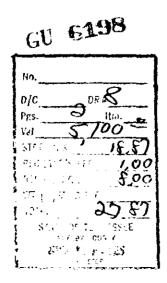
KNOW ALL MEN BY THESE PRESENTS, that T. H. Black, of the County of Shelby and State of Tennessee for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars, do hereby bargain, sell, release, remise, quit claim and convey unto Scott Industries, Inc., all my right, title and interest in and to the following described real estate, situated and lying in the City of Memphis, County of Shelby County, Tennessee, to wit:

East 50 feet of Lot 12 and east 100 of Lot 11 of E. E. Meacham's Cooper and Central Avenue Place Subdivision, A Plat of said subdivision is recorded in Plat Book 4, pagess 99 and 100 in the Shelby County Register's office; and described by meets and bounds as follows, to wit:

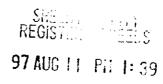
Beginning at the northwest corner of York Avenue and Tanglewood Avenue and running thence north 60 feet; thence west 100 feet; thence south 30 feet; thence east 50 feet; thence south 30 feet; thence 50 feet to the point of beginning. Ward 031-135-005, 60 X 50, Lot 30 X 50 in rear. This being the same property transferred to the Grantor as Instrument No. CJ-9763 in said Register's office.

IN TESTIMONY WHEREOF I have hereunto set my hand and seal this August, 1997, A.D. T. H. Brack	day of
STATE OF TENNESSEE COUNTY OF SHELBY	
Before me, the undersigned Notary Public in and for the and State aforesaid, personally appeared T. H. Black with white personally acquainted (or proved to me on the basis of satisfied evidence), and who, upon oath, acknowledged to be the person named and that he executed the foregoing instrument for the therein contained.	nom I am sfactory n within
WITNESS my hand and seal this 6 day of August, 1997.	
Mary Ruy Closema Notary Public MARY KAY ABRAMS	
My commission expires: My Commission Expires July 10, 2001	. Server and server an
Property Address: VALANT LOT'S)	
Ward 031-135-005 District Block Parcel	
Mail Tax Bill To:	
Scott Industries, Inc. 5372 Hayne Circle South Memphis, Tennessee 38119	
I, or we, hereby swear or affirm that to the best of affiant's kinformation and belief the actual consideration for this transfer than 95,000.00.	
Affiant T. H. Black	
Subscribed and sworn to before me this the 6 day of August, 1997	
Mary Key abrams Notary Public MARY KAY ABRAMS	
My commission expires: My Commission Expires July 10, 2001	

GU 6198



GU6198



WARRANTY DEED

J4 5204 2

1st by of March THIS INDENTURE, made and extend into this TRI-STATE PLUMBING CO., a partnership consisting of JOSEPH A. VALENTINE and WILLIAM LYNN TUBBS,

SCOTT INDUSTRIES, INC., a Tennessee corporation,

100 in the Register's Office of Shelby County, Tennessee, more particularly described as follows:

BEGINNING at a point in the north line of York Avenue (50 feet wide) a BEGINNING at a point in the north line of York Avenue from its intersection with the east line of Tanglewood Street; thence northwardly along a line parallel with the east line of Tanglewood Street, a distance of 179.00 feet to an iron pin in the southeast line of the N.C.&St.L. distance of 179.00 feet to an iron pin in the southeast line of the N.C.&St.L. Railroad right-of-way; thence northeastwardly along the southeast line of said alley a said right-of-way a distance of 66.22 feet to a point in the west line of an alley (12 feet wide); thence southwardly along the west line of said alley a distance of 200.87 feet to a point in the north line of York Avenue, same being distance of 552.70 feet from the west line of Cooper Street; thence westward a distance of 552.70 feet from the west line of Line of York Avenue, same being a light of the North line of York Avenue and benefit the point of beginning.

Lynorm the north line of York Avenue of Cooper Street; thence westward a light of the point of beginning or in wise appendicing unto the said party of the second part, his heirs, successors and assigns in fee simple forever.

And the said party of the first part does hereby covenant with the said party of the second part that he is lawfully seized in fee of the aforedescribed real estate; that he has a good right to sell and convey the same; that the same is unencumbered. except for the unpaid part of the debt secured by trust deed of record in Book H6 Page 7576, said Register's Office, which unpaid balence the grantee hereby assumes and agrees to pay. and that the title and quiet possession thereto he will warrant and forever defend against the lawful claims of all persons.

The word "party" as used herein shall mean "parties" if more than one person or entity be referred to, and pronouns shall be construed according to their proper gender and number according to the context hereof.

witness the signature of the said party of the first part the day and year first above written.

TRI-STATE PLUMBING CO., a partnership

By: () A C ()

JOSEPH A VALENTINE

JOSEPH A VALENTINE

WILLIAM LYNN TUBBS

STATE OF TENNESSEE, COUNTY OF SHELBY:

Before me, the undersigned, a Notary Public within and for said county and state at Memphis, duly commissioned and qualified, personally appeared JOSEPH A. VALENTINI and WILLIAM LYNN TUBBS, with whom I am personally acquainted, and who, upon their several oaths, acknowledge themselves to be all of the partners of the TRI-STATE PLUMBING CO., a partnership, and that they, as such partners, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by themselves as such partners. withess my hand and Notarial Seal at office this / day of , 1974.

My domaissics expires:

NOTARY PUBLIC



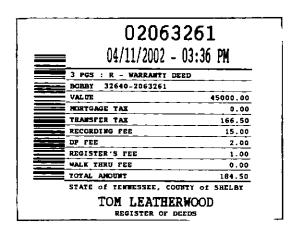
		J4 52b4
STATE OF TENNESSEE, COUNTY OF SHELBY		0004
		مب
Before me, a Notary Public in and for said State and Count	y, duly commissioned and qualif	ied, personally appeared
	<u></u>	The me known to
be the person described in and who executed the foregoing instructioned.	rument, and acknowledge that .	he executed the same for the purposes therein
WIINESS my hand and Notarial Seal at office this	day of	10 × 00
My commission expires	************	2 0 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
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• • • • • • • • • • • • • • • • • • • •	• • • • • • •	E 2014 0 Notary Public
RECOR	DING DAŽÍ ONLY	_
Property address 2087 York Avenue	ia.	_
Scott Industries, Inc. 2074 York Ave., Memphis, Tenn.	sir A	I, or we, hereby swear or affirm that to the best of affant's knowledge, information, and belief, the acrual consideration for this transfer or value of the property transferred, whichever
	S	is greater is, \$3.7,000,00 which amount
This incrument prepared By: + MAiL +6; Blanchard S. Tual, Atty.	ווינינווו ב לגן	is equal to or greater than the amount which the
1041 Sterick Bldg.	() X () () ()	, and voluntary tale.
State tax \$\$ 96.20		Affine
Register's fee50		Subscribed and sworn to before me this
Recording fee	12.82	1st day of March 19 74
10:21		-20 CALLES 3-4
T.G.#	The state of the s	J. 30
		Mr Completes and



Tom Leatherwood

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.



Tom Leatherwood, Shelby County Register of Deeds: Instr. # 02063261

PREPARED BY:

Johnson, Grusin, Kee & Surprise, P.C. 780 Ridge Lake Boulevard, Suite 202 Memphis, Tennessee 38120

Our File No.: 183959

WARRANTY DEED

THIS INDENTURE, made and entered into this the 15th day of March, 2002, between T. Bruce Black and wife, Cynthia Guckert Black, party of the first part, and Scott Industries, Inc., a Tennessee corporation, party of the second part.

WITNESSETH: That for and in consideration of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the said PARTY OF THE FIRST PART has bargained and sold and does hereby bargain, sell, convey and confirm unto the said PARTY OF THE SECOND PART, all of party of the first part's right, title and interest in the following described real estate lying in the City of Memphis, County of Shelby, State of Tennessee, more particularly described as follows:

See Exhibit "A" attached hereto for Legal Description.

This being the same property conveyed to party of the first part by Warranty Deed of record as Instrument Number S4 7362 in the Register's Office of Shelby County, Tennessee.

TO HAVE AND TO HOLD the aforesaid real estate together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said party of the second part, and the party of the second part's heirs, successors and assigns in fee simple forever. The said party of the first part does hereby covenant with the said party of the second part that party of the first part is lawfully seized in fee of the aforedescribed real estate and that party of the first part has a good and lawful right to sell and convey the same. The party of the first part further covenants that the same is unencumbered except for 2002 City of Memphis and Shelby County taxes, not yet due and payable, which party of the second part assumes and agrees to pay; and subject to Deed Restrictions of record at Instrument Number S4 7362; all in the Register's Office of Shelby County, Tennessee; and that the title and quiet possession thereto party of the first part will warrant and forever defend against the lawful claims of all persons.

WITNESS my hand on the day and year first above written.

T. Bruce Black

white Guckert Black

STATE OF TENNESSEE COUNTY OF SHELBY

Before me, a Notary Public in and for said State and County, personally appeared **T. Bruce Black and wife**, **Cynthia Guckert Black**, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged that they executed the foregoing instrument as and for their free act and deed.

Witness my hand, at office, this 15th day of March, 2002.

My Commission Expires

Notary Public

Tom Leatherwood, Shelby County Register of Deeds: Instr. # 02063261

Name and Address of Property Owner: Scott Industries, Inc. 5372 Hayne Circle Memphis, Tennessee 38119

Property Address: 2078 York Avenue Memphis, Tennessee 38104

Person Responsible for Taxes: Scott Industries, Inc. 5372 Hayne Circle Memphis, Tennessee 38119

Parcel #: 031-136-012

STATE OF TENNESSEE COUNTY OF SHELBY

I hereby swear or affirm that the actual consideration for this transfer, or value of the property or interest in property transferred, whichever is greater is \$45,000.00 which amount is equal to, or greater than, the amount which he property, or interest in property transferred, would command at a fair and voluntary sale.

Affiant

Sworn to and subscribed before me, a Notary Public, this 15th day of March, 2002.

Notary Public

My Commission Expires:

RETURN TO:

JOHNSON, GRUSIN, KEE & SURPRISE, P.C.

780 RIDGE LAKE BLVD., SUITE, 202

MEMPHIS, TENNESSEE 38120

Tom Leatherwood, Shelby County Register of Deeds: Instr. # 02063261

EXHIBIT "A"

The East 62.5 feet of Lots 13 and 14 and the East 62.5 feet of the South 20 feet of Lot 15 of E.E. Meachem's Cooper & Central Avenue Place Subdivision, as per plat of record in Plat Book 4, Pages 99 and 100, in the Register's Office of Shelby County, Tennessee, and being more particularly described as follows: BEGINNING at a point in the north line of York Avenue 62.5 feet cast of the intersection of the north line of York Avenue and the east line of Tanglewood Street; thence eastwardly along the north line of York Avenue 62.5 feet to a point in the west line of a 12 foot alley; thence northwardly along the west line of said alley making an angle in the northeast quadrant of 88 degrees 47 minutes 48 seconds 100.0 feet to a point; thence westwardly parallel to York Avenue 62.5 feet to a point; thence southwardly 100.0 feet to the point of beginning; being the same property described in Warranty Deed of record as Instrument 54 7362, said Register's Office.

CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

	COU	NCIL AG	ENDA CHEC	K OFF SHEET	
ONE ORIGINAL ONLY STAPLED TO DOCUMENTS	Planning &		OMMITTEE:	5 January 2021 DATE 5 January 2021	Planning & Development DIVISION
				DATE	
ITEM (CHECK ONE) ORDINANCE X RESOLUTION OTHER:		ICATION	REQUE	T ACCEPTANCE / EST FOR PUBLIC	HEARING
ITEM DESCRIPTION:	A resolution approv	ing a physi	cal street closure	======================================	
CASE NUMBER:					
DEVELOPMENT: Sam Cooper and Tilln			ned Developmen	t	
LOCATION:	Part of Autumn Ave	enue east of	Lipford Street a	nd north of Sam Co	ooper Boulevard
COUNCIL DISTRICTS:	District 5 and Super	r District 9			
APPLICANT:	MVS Real Estate M	Iid Town, L	LC		
REPRESENTATIVE:	John Behnke of Spi	re Enterpris	ses		
EXISTING ZONING:	Residential – 6				
REQUEST:	Physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard				
AREA:	5042 square feet				
RECOMMENDATION:	The Division of Planning and Development recommended The Land Use Control Board recommended Approval with conditions Approval with conditions				
RECOMMENDED COUNC	CIL ACTION: Pub	<mark>lic Hearin</mark> g	<mark>, Not Required</mark>		
PRIOR ACTION ON ITEM: (1) 10 December 2020 (1) Land Use Control Board	APPROVAL - (1) APPROVED (2) DENIED DATE ORGANIZATION - (1) BOARD / COMMISSION				
FUNDING: (2) \$ \$	(2) GOV'T. ENTITY (3) COUNCIL COMMITTEE REQUIRES CITY EXPENDITURE - (1) YES (2) NO AMOUNT OF EXPENDITURE REVENUE TO BE RECEIVED				
SOURCE AND AMOUNT O	F FUNDS	ODED A	TING DUDGET		
<u>\$</u>		CIP PRO	TING BUDGET DJECT #		
\$		FEDERA	AL/STATE/OTH	IER 	
ADMINISTRATIVE APPRO	OVAL:		<u>DATE</u>	POSITION MUNICIPAL PL DEPUTY ADMI ADMINISTRAT DIRECTOR (JO) COMPTROLLE FINANCE DIRECTOR CITY ATTORNI	NISTRATOR OR INT APPROVAL) R CTOR
				CHIEF ADMIN	ISTRATIVE OFFICER
·				COMMITTEE C	CHAIRMAN



Memphis City Council Summary Sheet

SAC 20-21

A resolution requesting the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard:

- This item is a resolution to allow the above with conditions and
- The Division of Planning & Development sponsors this resolution at the request of the Applicant: MVS Real Estate Mid Town, LLC; and Representative: John Behnke of Spire Enterprises.



RESOLUTION

A resolution approving the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard, also known as SAC 20-21.

WHEREAS, the City of Memphis is the owner of real property known as part of Autumn Avenue east of Lipford Street and north of Sam Cooper Boulevard in Memphis, Tennessee, and being more particularly described as follows:

Beginning at a point (N 319994.9881, E 784026.4808) in the south line of Autumn Avenue (formerly Brown Avenue) (25-foot right-of-way), said point also being in the north line of Lot 78 of said Lincoln Park Subdivision (P.B. 5, Pg. 95) a distance of 0.54 feet east of the northwest corner of said Lot 78 as measured along said north line of Lot 78 and the said south line of Autumn Avenue; thence continuing along said south line of Autumn Avenue S 85°58'32" E a distance of 161.25 feet to a point in the north right-of-way of Sam Cooper Boulevard (right-of-way varies); thence along said north right-of-way N 76°41'40" E a distance of 84.65 feet to a point, said point being in the north line of said Autumn Avenue; thence along said north right-of-way of Autumn Avenue N 85°58'32" W a distance of 242.12 feet to a point; thence S 4°01'28" W a distance of 25.00 feet to the Point of Beginning and containing 5042 square feet of land, more or less.

WHEREAS, the City Council of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and desires to close the hereinabove described public right-of-way and it is deemed to be in the best interest of the City of Memphis that said public right-of-way be vacated and revert to the abutting property owners; and

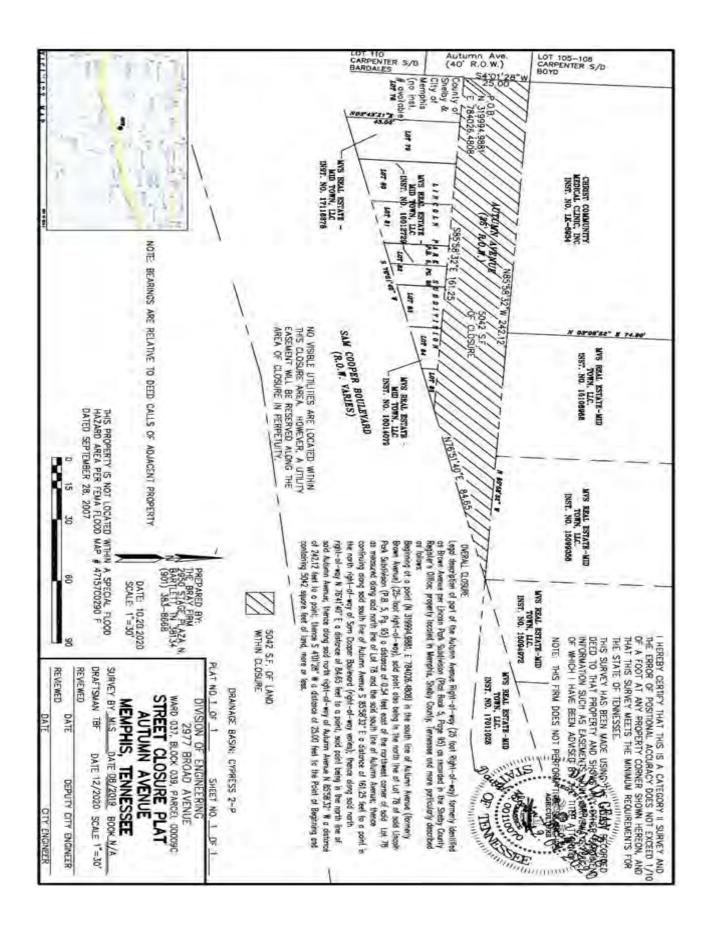
WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on 10 December 2020, and said Board has submitted to the City Council of Memphis its findings and recommendation of approval, subject to the following conditions:

- A consolidation plat, subject to the certification of the Zoning Administrator, shall be recorded in conjunction with the recording of quitclaim deeds. This plat shall consolidate all vacated right-ofway with adjacent parcels, as well as consolidate parcels 037039 00015, 037039 00016, and 037039 00079.
- 2. The existing curb cut on Sam Cooper shall be closed with the appropriate streetscape plate.
- 3. Any existing utilities within the vacated right-of-way shall be overlaid with an easement or relocated.

NOW THEREFORE BE IT RESOLVED, by the City Council of Memphis that the above-described public right-of-way be and is hereby closed for public use, subject to the aforementioned conditions.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute all quitclaim deeds to the owners of the properties abutting on the above described public right-of-way, said deeds not to be delivered until the conditions herein stated have been met by applicant.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Lawyers Title Insurance Company, the Memphis Title Company, the Chicago Title Company, the Security Title Company, and the Shelby County Property Assessor's Office.



LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday 10 December 2020*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SAC 20-21

LOCATION: Part of Autumn Avenue east of Lipford Street and north of Sam

Cooper Boulevard

COUNCIL DISTRICT(S): District 5 and Super District 9

APPLICANT: MVS Real Estate Mid Town, LLC

REPRESENTATIVE: John Behnke of Spire Enterprises

REQUEST: Physical closure of part of the Autumn Avenue right-of-way east of

Lipford Street and north of Sam Cooper Boulevard

EXISTING ZONING: Residential – 6

AREA: 5042 square feet

The following spoke in support of the application: None

The following spoke in opposition to the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval of the application, subject to the following conditions:

- 1. A consolidation plat, subject to the certification of the Zoning Administrator, shall be recorded in conjunction with the recording of quitclaim deeds. This plat shall consolidate all vacated right-of-way with adjacent parcels, as well as consolidate parcels 037039 00015, 037039 00016, and 037039 00079.
- 2. The existing curb cut on Sam Cooper shall be closed with the appropriate streetscape plate.
- 3. Any existing utilities within the vacated right-of-way shall be overlaid with an easement or relocated.

The motion *passed* by a unanimous vote on the consent agenda.

AGENDA ITEM: 1

CASE NUMBER: SAC 20-21 L.U.C.B. MEETING: 10 December 2020

LOCATION: Part of Autumn Avenue east of Lipford Street and north of Sam Cooper Boulevard

COUNCIL DISTRICT: District 5 and Super District 9

APPLICANT: MVS Real Estate Mid Town, LLC

REPRESENTATIVE: John Behnke of Spire Enterprises

REQUEST: Physical closure of part of the Autumn Avenue right-of-way east of Lipford Street

and north of Sam Cooper Boulevard

AREA: 5042 square feet

EXISTING ZONING: Residential – 6

CONCLUSIONS (p. 15)

- 1. MVS Real Estate Mid Town, LLC, and two neighboring property owners, have requested the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard.
- 2. Said company seeks to construct a convenience store with gas sales at 2977 Broad Avenue, directly to the northeast of the subject right-of-way. They intend to construct a driveway on Sam Cooper through the subject right-of-way to provide access to the proposed convenience store, hence the request for the right-of-way vacation.
- 3. This segment of Autumn was severed from the city street network when right-of-way was obtained for the extension of Interstate 40 in the 1960s and later when Sam Cooper Boulevard was extended to East Parkway in the early 2000s.
- 4. The subject right-of-way serves no public purpose. The City would benefit by making this land available for development and taxation.

CONSISTENCY WITH MEMPHIS 3.0

Per the Department of Comprehensive Planning, the Memphis 3.0 General Plan is inapplicable to this request.

RECOMMENDATION (p. 15)

Approval with conditions

Staff Writer: Brett Davis E-mail: brett.davis@memphistn.gov

GENERAL INFORMATION

Zoning Atlas Page: 2035

Existing Zoning: Residential – 6

PUBLIC NOTICE

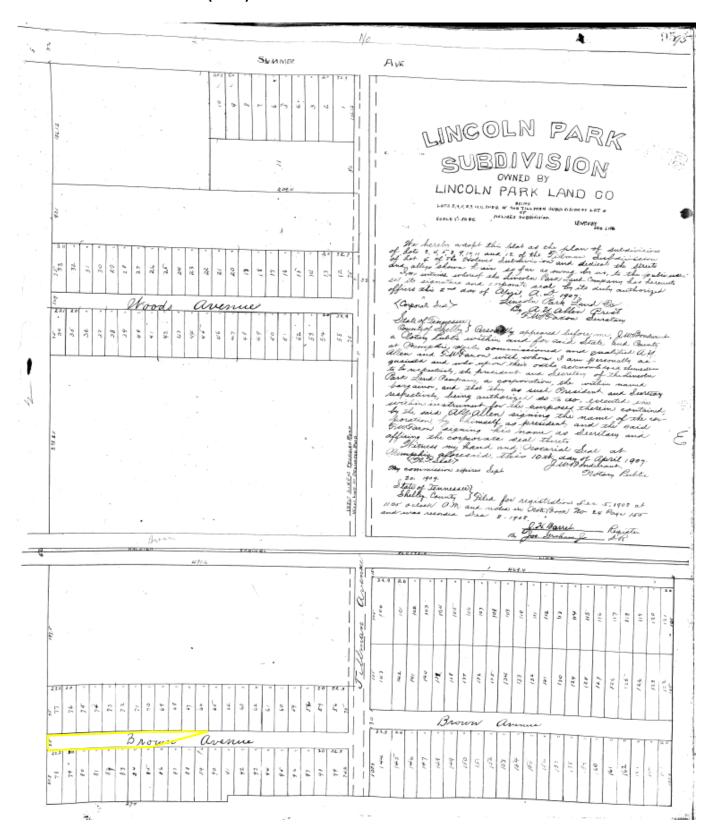
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 51 notices were mailed on 22 October 2020, and a total of two signs posted. The sign affidavit has been added to this report.

LOCATION MAP



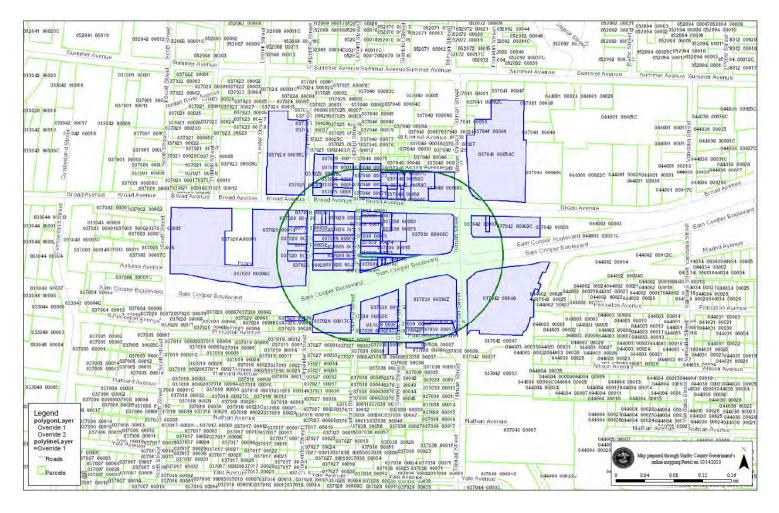
Subject right-of-way (ROW) located in Binghamton

LINCOLN PARK SUBDIVISION (1908)



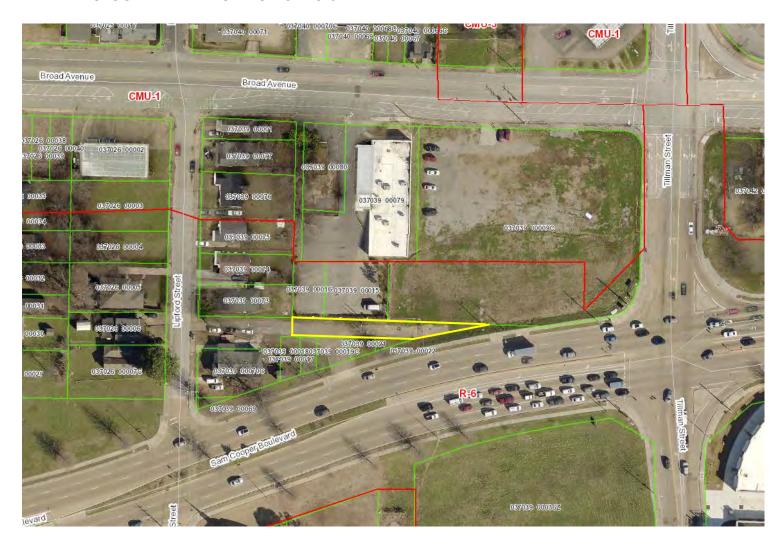
According to the City Engineer's Office, this segment of Autumn was renamed from Brown Avenue sometime between 1929 and 1934. Staff is not sure exactly how or when the street was renamed.

VICINITY MAP



The 500-foot mailing radius is measured from the nearest intersections of the right-of-way proposed to be closed, rather than from the boundaries of the subject land itself.

AERIAL PHOTOGRAPH WITH ZONING DISTRICTS



Existing Zoning: Residential – 6

Surrounding Zoning

North: Residential – 6

East: Residential – 6

South: Residential – 6

West: Residential – 6

LAND USE MAP



SITE PHOTOS



View of part of subject right-of-way, to left, as well as the neighboring parcel which would absorb part of the vacated right-of-way. The applicant seeks to construct a driveway on Sam Cooper, to right, through the subject land.



Alternate view of subject right-of-way from Sam Cooper.

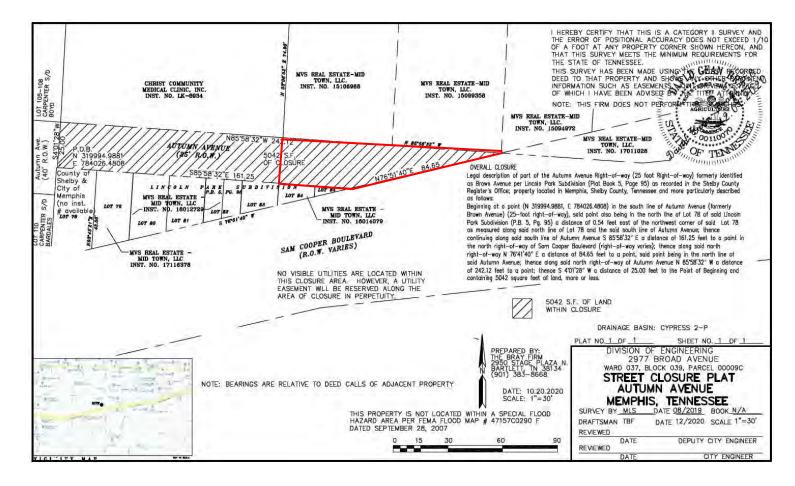


View of existing ingress/egress between Sam Cooper and subject right-of-way.



Looking west down subject right-of-way, toward Lipford.

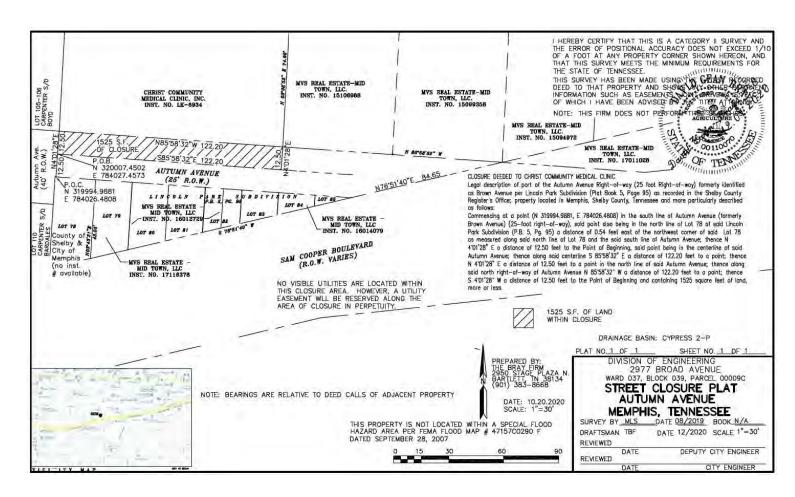
PROPOSED RIGHT-OF-WAY VACATION PLAT



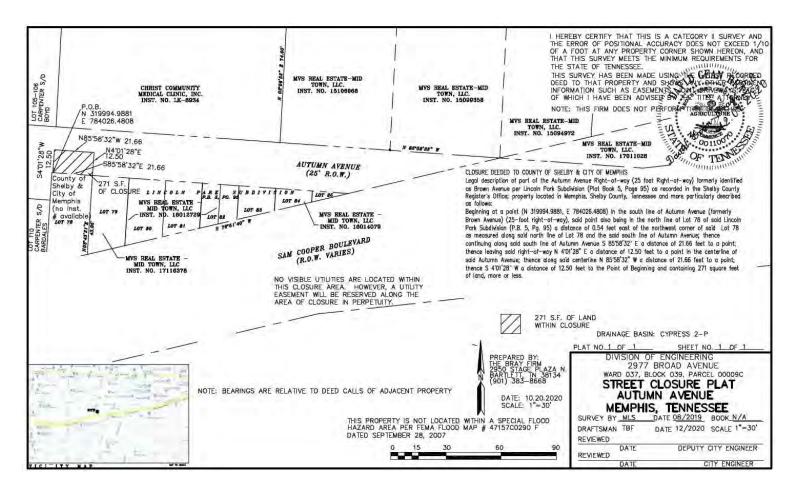
This sheet shows the total right-of-way to be closed (5042 square feet).

At staff's encouragement, the applicant reached out to neighboring property owners in order to close the remainder of the dead-end Autumn right-of-way within the Lincoln Park Subdivision. Originally, only that land adjacent on both sides to parcels owned by the applicant was included in the closure request.

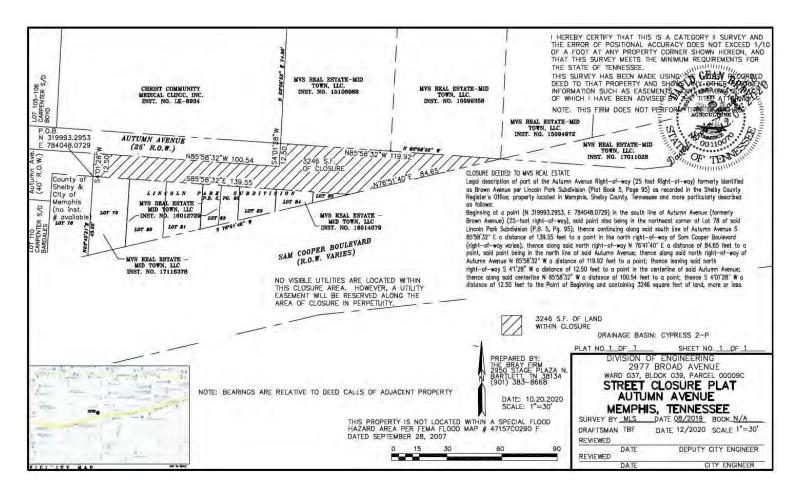
For reference, the area subject to the original request (1988 square feet), has been outlined in red.



This sheet shows that land to be deeded to the Christ Community Medical Clinic, Inc. (1525 square feet).

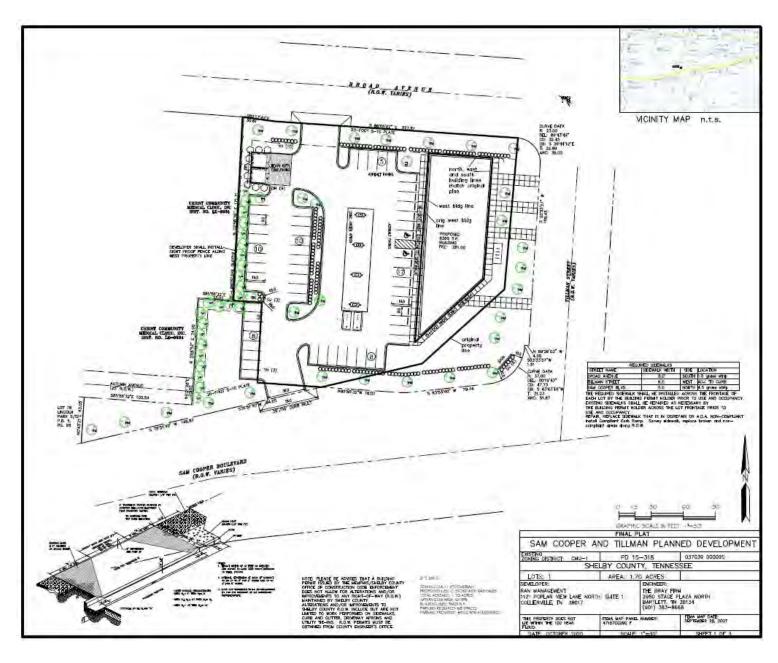


This sheet shows that land to be deeded to the City of Memphis and Shelby County (271 square feet).



This sheet shows that land to be deeded to MVS Real Estate Mid Town, LLC (3246 square feet).

PROPOSED SITE PLAN OF CONVENIENCE STORE WITH GAS SALES



A full review of this proposed site plan has not yet been conducted and would be considered separately from the street closure application.

PD 15-318, APPROVED CONCEPTUAL SITE PLAN



The proposed convenience store will be reviewed in accordance with the approved but unrecorded planned development known as PD 15-318, in conformance with Sub-Section 9.6.11D.

STAFF ANALYSIS

Request

MVS Real Estate Mid Town, LLC, and two neighboring property owners, have requested the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard.

The application and letter of intent have been added to this report.

Site Description

The 5042-square foot subject right-of-way is that portion of the dead-end street within the Lincoln Park Subdivision, located east of Lipford and north of Sam Cooper. The 25-foot asphalt right-of-way narrows to a point at its eastern end.

Conclusions

MVS Real Estate Mid Town, LLC, and two neighboring property owners, have requested the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard.

Said company seeks to construct a convenience store with gas sales at 2977 Broad Avenue, directly to the northeast of the subject right-of-way. They intend to construct a driveway on Sam Cooper through the subject right-of-way to provide access to the proposed convenience store, hence the request for the right-of-way vacation.

This segment of Autumn was severed from the city street network when right-of-way was obtained for the extension of Interstate 40 in the 1960s and later when Sam Cooper Boulevard was extended to East Parkway in the early 2000s.

The subject right-of-way serves no public purpose. The City would benefit by making this land available for development and taxation.

RECOMMENDATION

Staff recommends *approval* with the following conditions:

- 1. A consolidation plat, subject to the certification of the Zoning Administrator, shall be recorded in conjunction with the recording of quitclaim deeds. This plat shall consolidate all vacated right-of-way with adjacent parcels, as well as consolidate parcels 037039 00015, 037039 00016, and 037039 00079.
- 2. The existing curb cut on Sam Cooper shall be closed with the appropriate streetscape plate.
- 3. Any existing utilities within the vacated right-of-way shall be overlaid with an easement or relocated.

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City Engineer:

1. Standard Subdivision Contract or Street Cut Permit as required in Section 5.5.5 of the Unified Development Code.

Street Closures:

- 2. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense. At a minimum, a 15ft sanitary sewer easement will be required for the sewer located in Autumn.
- 3. City sanitary sewers/drainage facilities are located within the proposed closure area.
- 4. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
- 5. The applicant shall comply with all conditions of the closure within 3 years of the conditional approval of the closure by the City Council.
- Provide documentation that TDOT has removed the existing access control on Sam Cooper along this
 frontage. Closure of Autumn Avenue does not grant access to Sam Cooper in light of access control
 restrictions.
- 7. The City Engineer shall approve the design, number and location of curb cuts. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

City Fire Division:

City Real Estate:

No comments received.

APPLICATION



Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET, SUITE 476, MEMPHIS, TENNESSEE 38103-2084 (901) 363-6619

APPLICATION FOR RIGHT-OF-WAY VACATION/ STREET/ALLEY/CLOSURE APPROVAL

PLEASE TYPE OF	PRINT		
Name of/Street/Alley/ROW: Autumn Avenue			
Property Owner of Record: MVS Real Estate Mid Town I	LC	Phone #:	
Mailing Address: 555 Trinity Creek Cove		Cordova/TN	Zip 38018
Property Owner E-Mail Address:			
Applicant: Spire Enterprises		Phone # 90	1-494-1559
Mailing Address: P.O. Box 770065	City/State:	Memphis/TN	Zip 38177
Applicant E- Mail Address: realestate@johnbehnke.us			
Representative: John Behnke		Phone #: 90	1-494-1559
Mailing Address: P.O. Box 770065	City/State:	Memphis/TN	Zip 38177
Representative E-Mail Address: realestate@johnbehnke.	us		
Engineer/Surveyor: David Bray, P.E The Bray Firm		Phone # 901	-383-8668
Mailing Address: 2950 Stage Plaza North	City/State:	Bartlett/TN	Zip 38134
Engineer/Surveyor E-Mail Address: dgbray@comcast.net			
Closure Street Address Location: extreme East end of Au	tumn dead	ending at Sam C	Cooper Blvd.
	✓Yes No		
Unincorporated Shelby County	Yes ✓ No		
City of n/a Reserve Area	Yes VNo		
Distance to nearest intersecting street: approx 250' Eastwa approx 300' Westward to Lipford Street	rd to Tillma	an Street or	
Area of ROW: 1988+/- sq.ft. Square-Feet/Acres Closure starts at: the West P/L of APN 037039 00009C aka 2977 Broad Avenue	Length x V	Vidth of ROW: 119	9'/39' x 25'/0' _{Fe}
Proceeds to an existing dead end at Sam Cooper Boulevard Reason for Closure: Per Ken Johnson, P.E. of Memphis & Shelby County Tra		ataman at this arist as a	to the same in the same size and in the

SAC 20-21

Landowner	APN
MVS Real Estate – Mid Town LLC Todd Tobias 1508 Goodbar Memphis, TN. 38104 901-491-8141 Toddtobias99@gmail.com	037039 00021 037039 00022 037039 00019C 037039 00018
City of Memphis/Shelby County Doug McGowen Chief Operating Officer City of Memphis 125 N. Main St. Suite 308 Memphis, TN 38103 (901) 636-7228 doug.mcgowen@memphistn.gov	037039 00017
Christ Community Medical Clinic, Inc. Claude Bynum, Facilities Manager 2595 Central Avenue Memphis, TN 38104 901-701-2500 claude.bynum@christchs.org	037039 00015 037039 00016

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

09/18/2020 with Chip Saliba

I (we) hereby make application for accompanying materials and closure p may result in the postponement of the Use Control Board at the next available hereby authorize the filing of this appli	olat. I (we) a application b ole hearing d	eccept responsibility for any eeing reviewed by the Mempl ate. I (We), owner(s) of the	errors or omissions which his & Shelby County Lar above described proper
	20/2	4/2020	ou my benzui
Property Owner of Record* APVS APN 037039-00003C	Date 9/24/	Applicant /2020	Date
Property Owner of Record® MVS APN 037039 00022	Date /23/2020	Applicant	Date
Property Owner of Record* MVS APN 027039 00021	Date 13 /2020	Applicant	Date
Property Owner of Record* MVS APN 037039 00018	Date	Applicant Ap. B.	Date
Property Owner of Record*	Date	Applicant	Date

Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

Types of Vacation (from Chapter 9.8 of the Unified Development Code)

Pre-Application Conference held on:

- Conversions (public-to-private street conversions, pursuant to Section 5.2.18 of the UDC)
 Note: street conversions entirely within approved subdivisions or planned developments shall be processed
 - Note: street conversions entirely within approved subdivisions or planned developments shall be processed as revisions to the subdivision plat or planned development plat. Please refer to those appropriate applications.
- 2. Physical closures (street and alley closures that involve the physical closure of an existing street or alley)
- 3. Abandonment (divesture of abandoned or excess right-of-way, paper streets, paper alleys and easements)

SIGN POSTING - A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

Pre-Application Conference held on: 11/23/20

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

with Gregory Lunn and Claude Bynum

may result in the postponement Use Control Board at the next hereby authorize the filing of the —Docusioned by:	available hearing d	late. I (We), owner(s) of the	above described proper
Shantelle Leatherwood	11/24/2020		
Property, Owner of Record* APN 037039 00016 Christ C	Date ommunity	Applicant	Date
Shantelle Leatherwood	11/24/2020		
Property Owner of Record* APN 037039 00015 Christ Co	Date ommunity	Applicant	Date
Property Owner of Record*	Date	Applicant	Date
Property Owner of Record*	Date	Applicant	Date
		Applicant	

Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

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SIGN POSTING - A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

----- Original Message ------

Subject: Re: scan: SAC 20-21: Autumn Avenue

From: "McGowen, Doug" < <u>Doug.McGowen@memphistn.gov</u>>

Date: Wed, December 02, 2020 8:01 pm

To: "RealEstate@JohnBehnke.us" <RealEstate@JohnBehnke.us>

I have signed will ensure LUCB understands this.

Get Outlook for Android

LETTER OF INTENT



September 30, 2020

Chip Saliba
Land Use & Development Services
Memphis & Shelby County Office of Planning & Development
City Hall, 125 N. Main Street, Suite 477
Memphis, Tennessee 38103

Re: Street/Alley Closure – Example 4
Autumn Avenue near Sam Cooper Blvd.

Dear Mr. Saliba,

We are pleased to submit an Application for Street and Alley Closure at the subject location. The purpose of this application is to request approval for a closure at Autumn Avenue at its extreme Eastern ending so that access can be lawfully made across Autumn, from Sam Cooper, to the land abutting to the North (APN 037039 00009C).

The request comes on the advice and direction from Memphis & Shelby County Traffic Engineering as prerequisite to a planned right-in/right-out access at Sam Cooper Blvd.

The area requested for closure is already effectively and physically closed having been terminated when Sam Cooper Blvd. was widened and improved.

All application items are attached, however, since the request most closely aligns with Example 4 a Closure Plat and Dedication Instrument are not included. As in Example 4, there is already a gate installed across Autumn at the West side of the proposed beginning point of the closure.

Thank you,

SPIRE ENTERPRISES

John Behnke Consultant

AFFIDAVIT

Shelby County State of Tennessee	
/,_ John Behnke, being dul	ly sworn, depose and say that at 11:22 am/pn
on the 2nd day of November pertaining to Case No. SAC 20-21 at	, 2020, I posted Public Notice Sign(s Lipford/Autumn & Lipford/Sam Cooper Blvd
providing notice of a Public HearingMemphis City Council,	before the XXX Land Use Control Board Shelby County Board of Commissioners fo
그 아내는 아내는 사람이 있는 것들은 그 것들이 되었다면 하는 것이 없는 것이 없는 것이 없는 것이 없는 것이 없다.	Use Action (Planned Development oning District Map Amendment, _XXX_ Stree
and/or Alley Closure), a photograph of s the sign purchase receipt or rental contr	said sign(s) being attached hereon and a copy o
life sign purchase receipt or remarcontr	act attached hereto.
Ash Belike	11-03-2020
Owner, Applicant or Representative	Date
Subscribed and sworn to before me this	ay of NOVEMBER, 20 20
AMBINDO	
Notary Public	
My commission expires: 1.8-38	My Comm. Exp. 11-21-2022
	O TATE STATE

LETTERS RECEIVED

No letters received at the time of completion of this report.

CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

	CO	UNCIL AGENDA CH	ECK OFF SHEET		
ONE ORIGINAL				Planning & Developm	<u>ient</u>
ONLY STAPLED TO DOCUMENTS	Planning &	Zoning COMMITTE	E: <u>02/02/2020</u>	DIVISION	
TO DOCUMENTS	1 laming G	Zonnig Committi	$\frac{02/02/2020}{DATE}$		
		PUBLIC SESSION:	2 <u>02/02/2020</u> DATE	FIRST READING:	<u>01/05/20</u> DATE
ITEM (CHECK ONE)			DATE		DATE
X ORDINANCE	CONDEMNA		ANT ACCEPTANCI		
RESOLUTION	GRANT APP	LICATION X REC	QUEST FOR PUBLI	C HEARING	
OTHER:					
ITEM DESCRIPTION:				opment Code. The following CB DATE: <u>Dec. 10, 2020.</u>	
CASE NUMBER:	ZTA 20-1				
LOCATION:	City of Memphis and	d unincorporated Shelby (County		
APPLICANT:	Memphis and Shelby	y County Division of Plan	nning and Developme	ent	
REPRESENTATIVE:	Josh Whitehead, Zon	ning Administrator			
REQUEST:	Adopt amendments t	to the Memphis and Shelb	by County Unified D	evelopment Code.	
AREA:	This text amendmen	t affects all property with	in the City of Mempl	nis and unincorporated She	elby County.
RECOMMENDATION:	Division of Planning Land Use Control Bo	g and Development: App oard: App	proval proval		
RECOMMENDED COU	NCIL ACTION: Publ	ication in a Newspaper of	General Circulation	<u>Required</u>	
DDIOD ACTION ON ITE					
PRIOR ACTION ON ITEM (2)	И:	APPROVAL - (1) Al	PPROVED (2) DENI	IED	
12/10/2020		DATE	, ,		
(1) Land Use Control Board	<u>d</u>	ORGANIZATION -			
		(2) GOV'T. ENTITY	((3) COUNCIL CON	ИМПТЕЕ :	
FUNDING:		DEOLUDES CITY E	VDENIDITI IDE (1)	VEC (2) NO	
(<u>2</u>) \$		REQUIRES CITY E. AMOUNT OF EXPE		YES (2) NO	
\$		REVENUE TO BE F			
SOURCE AND AMOUNT	OF FUNDS	ODED ATING DUDG	SET		
<u>\$</u>		OPERATING BUDG CIP PROJECT #	JEI		
\$		FEDERAL/STATE/O	OTHER		
ADMINISTRATIVE APP	ROVAL:	<u>DATE</u>	<u>POSITION</u>		
			PRINCIPAL P	LANNER	
			DEPUTY DIR	ECTOR	
			DIRECTOR		
			DIRECTOR (J	OINT APPROVAL)	
			COMPTROLL	ER	
			FINANCE DI	RECTOR	
			CITY ATTOR	NEY	
<u> </u>			CHIEF ADMI	NISTRATIVE OFFICER	?
			COMMITTEE	CHAIRMAN	

January 5, 2021
Planning and Zoning Documents

Page 197

NOTICE OF TELEPHONIC PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE ZONING CODE OF THE CITY OF MEMPHIS

Notice is hereby given that, pursuant to Section 8-44-108 of the Tennessee Code Annotated, a Telephonic Public Hearing will be held by the Council of the City of Memphis on Tuesday, February 2, 2021, at 3:30 p.m., in the matter of amending the Zoning Code of the City of Memphis, being Chapter 28, Article IV, of the Code of Ordinances of the City of Memphis, Tennessee, as amended, as follows:

Tennessee, as amended, as fo	llows:	
CASE NUMBER:	ZTA 20-1	
APPLICANT:	Division of Planning and Development	
REPRESENTATIVE:	Josh Whitehead, Zoning Administrator	
REQUEST:	Adopt annual set of amendments to the Code (the zoning code of the City of M.	Memphis and Shelby County Unified Development Iemphis and County of Shelby)
RECOMMENDATIONS:		
Memphis and Shelby County	Division of Planning and Development:	Approval
Memphis and Shelby County	Land Use Control Board:	Approval
· · · · · · · · · · · · · · · · · · ·	in session to hear opposition against the n	2, 2021, at 3:30 p.m., the Council of the City of naking of such changes; such opposition must register
February at 8 a.m. with your	(i) name, (ii) address, and (iii) the phone n	tney@memphistn.gov no later than Monday 1 umber from which you will be calling. Please note h side may speak no longer than 15 minutes.
Please note video of this mee		

TO BE PUBLISHED:



Memphis City Council Summary Sheet

Ordinance approving a Zoning Text Amendment to amend the Unified Development Code.

- 1. Ordinance to approve a Zoning Text Amendment initiated by the Division of Planning and Development.
- 2. Zoning Text Amendments amend the Memphis and Shelby County Unified Development Code.
- 3. This is the annual set of amendments to the Unified Development Code presented each year by the Division of Planning and Development.
- 4. After a 90-day public review period, the Memphis and Shelby County Land Use Control Board held a public hearing on **December 10, 2020**, and amended and approved the Text Amendment unanimously by a vote of 10 to 0.
- 5. The amendment approved by the Land Use Control Board was to address the concerns of one of two individuals who spoke in opposition to this item.
- 6. No contracts are affected by this item.
- 7. No expenditure of funds/budget amendments are required by this item.

Joint Ordinance No.:	
----------------------	--

A JOINT ORDINANCE AMENDING THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE AS ADOPTED BY THE CITY OF MEMPHIS AUGUST 10, 2010, AND BY SHELBY COUNTY AUGUST 9, 2010, AS AMENDED, TO REVISE AND ENHANCE THE JOINT ZONING AND SUBDIVISION REGULATIONS AS RECOMMENDED BY THE MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING & DEVELOPMENT AND THE LAND USE CONTROL BOARD.

WHEREAS, By the provisions of chapter 165 of the Private Acts of the General Assembly of the State of Tennessee for the year 1921, authority was conferred upon the legislative body of the City of Memphis, Tennessee, to establish districts or zones within the corporate territory of the City of Memphis and to establish zoning regulations pertaining thereto, and to amend said zones or districts and zoning regulations pertaining thereto from time to time; and

WHEREAS, By the provisions of chapter 613 of the Private Acts of the General Assembly of the State of Tennessee for the year 1931, the legislative bodies of the City of Memphis and the County of Shelby were given authority to establish districts or zones within the territory in Shelby County, Tennessee, outside of, but within five miles of the corporate limits of the City of Memphis, Tennessee, and to establish zoning regulations pertaining thereto, and to amend said zones or districts and zoning regulations pertaining thereto from time to time; and

WHEREAS, By the provisions of chapter 625 of the Private Acts of the General Assembly of the State of Tennessee for the year 1935, authority was conferred upon the legislative body of the County of Shelby, to establish districts or zones within the unincorporated territory of Shelby County and outside the five-mile zone of the corporate limits of the City of Memphis, Tennessee, and to amend said zones or districts and zoning regulations pertaining thereto from time to time; and

WHEREAS, by the provisions of chapter 470 of the Private Acts of 1967, the General Assembly of the State of Tennessee conferred upon the legislative body of Shelby County the authority to regulate the subdivision or resubdivision of land into two or more parts; and

WHEREAS, by the provisions of section 2 of chapter 470 of the Private Acts of 1967, the General Assembly of the State of Tennessee conferred upon the legislative bodies of the City of Memphis and the County of Shelby the authority to regulate the subdivision and resubdivision of land within three miles of the corporate limits of the City of Memphis into two or more parts; and

WHEREAS, by provisions of T.C.A. title 54, ch. 10 [§ 54-10-101 et seq.], the General Assembly of the State of Tennessee conferred on the legislative body of Shelby County the authority to open, close or change public roads within the areas subject to its jurisdiction; and

WHEREAS, the Unified Development Code was adopted by the city of Memphis on August 10, 2010, and by Shelby County on August 9, 2010, as the new regulations for zoning and subdivisions in the city of Memphis and unincorporated Shelby County; and

WHEREAS, a comprehensive review of the Unified Development Code was initiated by the Memphis and Shelby County Division of Planning and Development; and

WHEREAS, The Unified Development Code should reflect the adoption of several amendments presented by the Memphis and Shelby County Division of Planning and Development; and

WHEREAS, The Memphis and Shelby County Land Use Control Board approved these amendments at its December 10, 2020, session;

NOW, THEREFORE, BE IT ORDAINED, By the City Council of the City of Memphis and by the Board of Commissioners of Shelby County, Tennessee that Joint Ordinance Nos. 5367 and 397, is hereby amended as follows:

SECTION 1, CASE NO. ZTA 20-1. That various sections of the Unified Development Code be hereby amended as reflected on Exhibit A, attached hereto.

SECTION 2. That the various sections, words, and clauses of this Joint Ordinance are severable, and any part declared or found unlawful may be elided without affecting the lawfulness or the remaining portions.

SECTION 3. That only those portions of this Joint Ordinance that are approved by both the City Council of the City of Memphis and the Board of Commissioners of Shelby County, Tennessee, shall be effective; any portions approved by one and not the other are not part of this Joint Ordinance.

SECTION 4. That this Joint Ordinance shall take effect from and after the date it shall have been enacted according to due process of law, and thereafter shall be treated as in full force and effect in the jurisdictions subject to the above-mentioned Ordinance by virtue of the concurring and separate passage thereof by the Shelby County Board of Commissioners and the Council of the City of Memphis.

BE IT FURTHER ORDAINED, That the various sections of this Ordinance are severable, and that any portion declared unlawful shall not affect the remaining portions.

BE IT FURTHER ORDAINED, That this Ordinance shall become effective , 2021.

Chairmar
Frank Colvett, Jr

APPENDIX A

(ordered as found in the staff report for this case; additions indicated in bold, underline; deletions indicated in strikethrough)

Amend the Front Cover to add approval dates by the Land Use Control Board for each of the amendments, as the ordinance numbers for the two additional text amendments not already included (ZTA 10-1 and ZTA 10-2).

Amend the Table of Contents:

10.10: Exception for Historic Multi-Family Properties (capitalize first letter)

Amend various sections throughout the Code:

Planning Director Zoning Administrator

Office Division of Planning and Development

Amend Sections 4.9, 9.3.3 and 9.17 by changing the references of the "Building Official" with regard to submittals of Sign Permits to the "Zoning Administrator."

Amend the flow chart in Section 9.20 by changing the reference of the "Building Official" to the "Zoning Administrator."

Amend Section 12.3.1:

PLANNING DIRECTOR: See definition of "Zoning Administrator."

ZONING ADMINISTRATOR (formerly known as the Planning Director) PLANNING DIRECTOR: The Administrator of the land use and development services department of the Memphis and Shelby County Division Office of Planning and Development, or his or her designee. In the absence or vacancy of the office of the Administrator of the land use and development services department of the Memphis and Shelby County Division Office of Planning and Development, the Director of the Memphis and Shelby County Division of Planning and Development or his or her designee shall be deemed as the Zoning Administrator Planning Director insofar as the administration of this Code is concerned (see also Section 9.1.6).

Amend Section 1.9:

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.

B. Determination of Consistency.

When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. The boards and bodies are responsible for making their own determination of consistency but shall consider

the determination of consistency made by the Division of Planning and Development and any comments made by affected citizens and neighbors when doing so.

C. Memphis 3.0 and this Code

The Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.

<u>D.</u> The following plans shall be considered in any decisions under this development code...

Amend the Table of Contents:

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

Amend various sections throughout the Code to reflect the spacing between the capital letter of the Sub-Section identification and the Arabic number of the Paragraph identification in references to the Code.

Amend Sections 2.2.3C(2), 2.2.3C(3), 2.9.2A and 12.3.1:

upper_story residential

Amend Sections 8.2.9F and 8.3.12F:

- 8.2.9F Upper-Story Residential. <u>See definition in Section 12.3.1.</u> A residential unit on the upper floors of a permitted nonresidential use.
- 8.3.12F: Upper-Story Residential <u>See definition in Section 12.3.1.</u> A residential unit on the upper floors of a permitted nonresidential use.

Amend Section 2.4.1:

2.4.1:...The Floodway (FW) and Floodplain Overlay (-FP) districts on the Zoning Map are generated, maintained and modified by FEMA; see Sub-Section 8.8.3B.

Amend Section 9.3.3, footnote "*":

*Only the body(s) may initiate a request for a comprehensive rezoning (see Sub-Section 9.5.12A), with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps.

Amend Sections 9.2.2 and 9.3.4A by removing the row entitled "FEMA Floodway and Floodplain Maps").

Amend Section 9.5.12A:

Only the legislative bodies may initiate a comprehensive rezoning, with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps...

Amend Section 9.5.12B:

...In addition, this procedure may be used to comprehensively zone properties in accordance with Federal Emergency Management Agency floodway and floodplain maps.

Amend Section 2.5.2 by changing the symbol for "gas stations" and "convenience stores with gas pumps" from a solid box ("■") in the CMU-1 zoning district to a hollow box ("□")

Insert a new Section 2.6.3J(1)(f):

Any convenience store with gas pumps or gas stations constructed in the CMU-1 district after January 1, 2021, or reactivated after one year of discontinuance, shall require the issuance of a Special Use Permit. Convenience stores with gas pumps and gas stations construction in the CMU-1 district prior to January 1, 2021, may be expanded and modified under the provisions of this Code. In addition to the approval criteria articulated in Section 9.6.9, the Land Use Control Board and governing body shall also consider the proximity of the proposed convenience store with gas pumps or gas station to both 1) other convenience stores with gas pumps and gas stations and 2) single-family residential zoning districts when reviewing an application for a Special Use Permit pursuant to this Item.

Amend Section 2.5.2 by moving "vehicle wash establishment" from the "Retail Sales and Service" use category to the "Vehicle Sales Service and Repair" use category

Amend Section 2.5.2 by creating splitting an existing use into three categories, "funeral homes, funeral directing," which would require a Special Use Permit in the CMU-1 district; "sales of funeral merchandise," would be allowed in the CMU-1 district by right; and "all other funeral establishments, including crematorium and pet crematorium," which would be excluded from the CMU-1 district. All three will continue to be permitted by right in the CMU-2, CMU-3, CBD, EMP and IH districts.

Delete Section 2.6.3R(2).

Amend Section 2.6.2I(2):

CMCS Towers Special Use Review - All Tower Types

Amend Section 2.6.2I(2)(a):

<u>Towers reviewed under the Special Use Permit process</u>

<u>This Item shall apply to any tower that requires a Special Use Permit.</u>

Amend Section 2.6.2I(2)(a)(1):

The application for a special use permit approval (see also Chapter 9.6) shall include the following...

Amend Section 2.6.2I(2)(c):

Co-Location — CMCS Towers Only

Amend Section 2.6.2I(2)(d):

Setbacks and Spacing

Amend Section 2.6.2I(2)(d)(1):

...Exceptions to the minimum setback requirements of the zoning district may be permitted through **the** Special Use **Permit process Review**, but not to the minimum 150-foot separation between a CMCS tower and an adjacent single-family residential dwelling.

Amend Section 2.6.2I(2)(d)(2):

All CMCS towers <u>located outside of the industrial zoning districts</u> must be spaced a minimum distance of one-quarter mile as measured from property line to property line. <u>This provision may be waived through the Special Use Permit process.</u>

Move Section 2.6.2I(3)(I) to a new Section 2.6.2I(2)(j).

Move Section 2.6.2I(3)(i) to a new Section 2.6.2I(2)(k).

Move Section 2.6.2I(2)(a)(1)(b) to a new Section 2.6.2I(2)(I) and amend thusly:

Prior to the issuance of a building permit, a study from a professional engineer **shall be submitted** which specifies the tower height and design including a cross-section of the structure, demonstrates the tower's compliance with applicable structural standards, including a certification that the tower will withstand at a minimum sustained winds in accordance with the appropriate building code, and a description of the tower's capacity, including the number and type of antennas which it can accommodate.

Delete Section 2.6.2I(3), with the exception of those sub-sections mentioned above that are being moved.

Amend Section 2.6.4H:

A container building is any principal or accessory structure used for a purpose other **than** a dwelling unit that is wholly or partially located within a shipping container.

Amend Section 2.7.1A:

Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal <u>use</u> uses...

Amend Section 2.7.2A(4)

2.7.2A(4): In single-family, open and residential zoning districts, no accessory structure shall be located within the front yard extend forward of the front building...

Amend Section 12.3.1:

YARD, FRONT: A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front façade of the principal building on the lot, or any projection thereof.

YARD, FRONT (**REQUIRED**): A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front lot line at the required building line on the lot, or any projection thereof.

Amend Section 2.7.6:

Swimming Pools: A swimming pool or the entire property on which it is located shall be walled or fenced to prevent uncontrolled access to such swimming pool from the street or from adjacent properties. Such swimming pool shall not be located in any required front yard and shall not be closer than five feet to any property line. Swimming pool equipment on residential lots may encroach into be located within the side yard setback, subject to so long as it is at least five feet from the property line and is screened from any public right-of-way. See Item 3.2.9E(5)(a), Encroachments.

Amend Section 2.9.4J:

Principal Uses

Vehicle service including...<u>new</u> tire sales and mounting **Vehicle repair** including...<u>used tire sales and mounting</u>

Amend Section 2.9.4J:

automobile service station

Amend Section 2.9.5D:

... Impound lot, wrecker service includes city wreckers, auto storage, excluding those impound lots permitted under Sub-Section 2.9.5B <u>and those towing services permitted under 2.9.4J</u>

Amend Section 3.1.3B:

...developments with multiple single-family detached and single-family attached housing types on a single tract, or lot, or site are subject to the site plan review process.

Amend the graphic under "Flat Roof" in Section 3.2.6A(1):

Measured to **Highest** Point of Roof Deck

Amend Section 3.2.6A(6):

Additional height above that permitted in the district or shown on an officially adopted height map may be permitted though the special exception process (see Chapter 9.14), except for all single-family detached and single-family <u>attached</u> detached housing types.

Amend Section 3.3.1B:

Unless otherwise approved, each lot must have frontage on a public street or an approved private drive. An alley may not constitute frontage. In no instance shall the minimum required frontage be less than 16 feet. No single-family detached or single-family attached unit with a frontage of less than 100 feet may have direct access to any street classified as an arterial or larger. Single-family detached or attached units with a frontage of less than 100 feet may be located along a public street or approved private drive classified as an arterial or larger provided that access to the units is in the form of either a frontage road or rear alley access (see Sub-Section 5.2.7F).

Amend Section 3.3.1G(1):

Where a flag lot is required to provide access to a landlocked area, no more than two ene flag lots may be created without necessitating the filing of a subdivision, notwithstanding the subdivision review exemptions of Sub-Section 9.7.3. This Paragraph shall not apply to any flag lot created before the adoption of this Code (a series of flag lots accessing the same roadway is not allowed).

Amend Section 3.7.2B by deleting the bottom row in the tables for the RU-3, RU-4 and RU-5 zoning districts.

Amend Section 3.9.1A(1):

The garage and carport placement requirements of this Section and Sub-Section 3.9.2H shall apply to all housing types within any site subject to Section 3.9.2. <u>Garages and carports constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.</u>

Amend Section 3.9.2A:

The following standards are intended to accommodate the majority of infill development in existing residential neighborhoods. They have been crafted to allow an applicant (and staff) to look to the surrounding "context" for guidance in construction. These standards are intended to encourage reinvestment in existing neighborhoods and reinforce the traditional character of established residential neighborhoods. Dwellings constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.

Amend Section 3.9.2B(4):

The <u>lot width provisions of this Section may be waived through either the major or minor subdivision approval process; all other</u> provisions of this Section may be waived through the <u>major</u> subdivision approval process, provided a determination is made that no

substantial harm will be imposed upon the health, safety and welfare of the surrounding neighborhood. The provisions of this Section may also be waived through the approval of a Certificate of Appropriateness by the Memphis Landmarks Commission.

Amend Section 3.9.2H:

Garages and Carports. Street-facing garages and carports may be allowed if an alley is not present and <u>at least half of the structures on the same block face feature</u> street-facing garages or carports are part of the dominant character of all properties fronting on the same block face. In these instances, the garage or carport placement must meet the standards of Section 3.9.1. In all other instances, street-facing garages and carports are only permitted if they are located at least 100 feet from the right-of-way and at least 50 feet behind the front façade of the structure.

Amend Section 3.9.2I:

...A minimum porch depth of six feet may be approved by the **Zoning Administrator** Planning Director (see Item above for this change) if any property on the same block face has a front porch less six feet or less in depth.

Amend Section 3.10.2B(1):

The minimum front and side street setbacks of 20 feet as specified in **this** Sub-Section 3.10.1A above may be reduced to zero feet provided the following provisions are met...

Amend Section 3.10.2B:

Side/rear abutting single-family

Amend Section 3.10.2C by replacing the "--" symbol in the columns headed "Conventional" and "Side Yard" homes in the row entitled "Front (with street access)" with "20."

Delete Section 3.10.3G(3)(c).

Amend Section 4.3.3:

The following streetscape plates must be installed along public and private streets abutting the subject property.

Amend Section 4.3.5B(2):

For S-6, S-7, S-2 9, S-12 and S-13 plates, trees shall be planted no more than 4' behind the back of curb.

Amend Section 4.4.7D:

No obstruction to cross visibility shall be deemed to be **excepted** accepted from the application of this section because of its being in existence at the time of the adoption hereof, unless expressly exempted by the terms of this section.

Amend Section 4.4.8D(2):

A subdivision plan or plat or planned development outline or final plan must be **modified** amended to indicate the location of gates, guardhouses and any realignment of common areas or infrastructure associated with the gates and guardhouses. The installation of a gates and guardhouses in subdivisions...

Amend Section 4.4.8D(3):

For the purposes of the appeals processes outlined in Chapters 9.6 and 9.7, only the applicant, homeowners <u>association</u> or property owners association may appeal the determination of the <u>Zoning Administrator</u> <u>Planning Director</u> (this amendment is covered above) to the Land Use Control Board.

Insert a new Section 4.5.2E:

Parking on grass

Except as provided in Paragraph 4.5.5C(2), parking on grass in the residential zoning districts is prohibited.

Amend Section 4.5.2C(2)(e)(1):
...Section 4.5.4 F)...

Amend Section 4.5.3A(1):
...Section 4.5.4 F)...

Amend Section 4.5.3B:

...Section 4.5.4 F)...

Amend Section 4.5.3B:

...SBC<u>B</u>ID...

Amend Section 4.5.5D(2)(b):

If seeking preservation credits under for an existing tree located in an interior island, terminal island, or perimeter island then such island must provide a nonpaved area...

Amend graphic in Section 4.5.5D(2)(b):

Terminal Terminial

Amend Section 4.6.4F(2)(g):

Where other uses, including <u>All</u> pedestrian, bike or other trails within <u>landscaping and</u> <u>screening areas</u> these uses must be maintained to provide for their safe use.

Amend Section 4.6.5J(3)(b):

Sight proof fences must be constructed of materials, such as treated wood and wrought iron...

Amend Section 4.6.5L:

Buffers shall <u>may</u> remain under the same ownership as the property providing the buffer; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the City or County, an approved land conservancy or land trust, or a property owners association...

Amend Section 4.6.5M(2):

Financial hardship due to meeting the requirements of this is section shall not be sufficient justification for alternative compliance.

Amend Section 4.6.7E(1):

Permissible Materials. Fences and walls must be constructed of high quality materials, such as decorative blocks, brick, stone, masonry panels, **stucco**, treated wood and wrought iron; and, where permitted, **vinyl-coated** chain link. Electrified fences, barbed wire or concertina wire fences are not permitted in a residential district.

Amend Section 4.6.7E(4):

Chain-Link Fences. Uncoated chain-link fences are not permitted except in the EMP, WD, and IH districts. Chain-link fencing <u>in all other districts</u> must be galvanized, polyvinyl chloride (PVC) color coated in either black, dark green or dark brown color coatings and part of an evergreen landscape screening system. At the intersection of a driveway and a street and on all corner sites (the intersection of two streets), a clear sight triangle shall be established as set forth in Section 4.4.7.

Insert a new Section 4.6.7E(6):

Fencing Facing Public Streets. Any side of fencing with exposed posts and rails shall not face public streets in the residential and open zoning districts.

Amend Section 4.6.7F:

Administrative Deviation. The **Zoning Administrator** Planning Director may permit additional fence material, alternate fence design, additional fence height, or reduced setback through the administrative deviation if it is determined that such allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood. Factors to be considered by the **Zoning Administrator** Planning Director when making

such an administrative deviation shall include the material, height or setback of fencing in the immediate vicinity of the subject site, the classification of the roadway abutting the subject site and the proposed use of the subject site (see Chapter 9.21).

Delete Section 4.6.8A(2).

Amend Section 4.6.8B(2):

...Compatibly Compatibility of material is subject to...

Amend Section 4.6.9C:

(Tree E): Yaupon Holy Holly

Amend Section 4.8.4(B)(3)(b):

- 1. General outdoor storage shall be screened along the public street and any public access easement by a Class III buffer as set forth in Section 4.6.5. In situations where general outdoor storage is located abutting or across the street from a residential district, such screening shall be high enough to completely conceal all outdoor storage from view. General outdoor storage on sites in the EMP, WD and IH Districts that are not within 500 feet of single-family residential zoning districts, as measured along the public right-of-way, are exempt from this Sub-Item requirement.
- 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
- 3. No general outdoor storage shall be permitted in a front setback area.

Amend Sections 4.9.1C, 4.9.6L and 8.3.13G(7) by changing "way finding" and "way-finding" to "wayfinding."

Amend Section 4.9.2B(4):

Signs located in the Central Business Improvement District (CBID), other than those classified as off-premise advertising signs established before January 23, 1973, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). Off-premise advertising signs in the CBID established before January 23, 1973, shall be governed by Section 4.9.8 of this Code.

Amend Section 4.9.2B(5):

Signs located in the South Central Business Improvement District (SCBID), other than those classified as off-premise advertising signs established before January 7, 1997, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). Off-premise advertising signs in the SCBID established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.

Amend Section 4.9.2B(6):

Signs located in the Uptown District (U), other than those classified as off-premise advertising signs established before January 7, 1997, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). Off-premise advertising signs in the Uptown District established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.

Amend Section 4.9.8G(1):

No portion of a detached sign, if it is legible from the interstate freeway, shall be closer than twenty (20) feet from the interstate freeway right-of-way and/or one hundred (100) feet from any emergency stopping shoulder lane, **whichever is less**.

Amend Section 4.9.8G(3):

4.9.8G(3): No portion of a detached sign, pole or other supporting structure shall be located within one hundred (100) feet of any property zoned residential or the residential portion of a planned development. This Paragraph shall not apply to interstate highway right-of-way zoned residential.

Amend Section 4.9.8G(4):

The maximum gross surface area of a sign is as follows:

Along all U.S. Interstate Highways in Memphis and Shelby County: six hundred seventy-two (672) square feet. Sign faces may be splayed in a "V" formation at a maximum of 45 degrees for the purposes of adhering to the computation of gross surface area under Paragraph 4.9.6A(3). Sign faces may not be splayed in an "X" formation.

Amend Section 4.9.15F(2)(c):

Any period of such discontinuance caused by government actions, strikes or acts of God, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for the purposes of this **paragraph** subdivision.

Move Section 6.1.2B(3)(c)(3) to a new Section 6.1.2B(3)(a)(3) and amend thusly:

In cases where <u>an</u> the equivalent alternative is <u>approved</u> used pursuant to paragraph a above, the <u>Zoning Administrator</u> Planning Director (details on this amendment are described above) may also waive the side and rear yard screening requirements set forth in the landscape enhancement plates upon a finding that the implementation of such plates is impractical or unnecessary, based on the existing use of the adjacent property.

Amend Section 6.1.3B(2):

...shall consult with the Shelby County Environmental Improvement Committee and/or the Memphis City Beautiful Commission, whichever is appropriate, prior to approval of any distribution of tree bank funds.

Amend Section 7.1F(1)(c):

All other development that meets the provisions of <u>Sub-</u>Section 7.2.9<u>A</u> in the SCBID Special Purpose District.

Amend Section 7.2.3D:

Uses <u>permitted by right</u> in accordance with the Commercial Mixed Use-1 (CMU-1) District shall be permitted throughout the remainder of the R-SD District subject to approval of a Special Exception (see Section 7.2.10) by the Land Use Control Board (LUCB) and the following criteria...

Amend Section 7.3.11:

Restaurant or Carry-Out Restaurant		X 15	P4	Х
Marina-Recreational Craft	X 15	X 15		

X = Use permitted by right; S = Use requiring legislative site plan review and approval subject to the issuance of a special use permit; P4 = Such use shall be part of hospital and designed and intended primarily to serve patients or employees; 15 = Use permitted by right in the Uptown Waterfront Overlay District; C=Use permitted by issuance of conditional use permit.

Amend Section 8.2.7C:

The following minimum streetscape standards apply along a Commercial Frontage as designated in Sub-Section 8.2.5B (see Sub-Section 8.2.5C for related building envelope standards). Developments with no on-site parking between the building **and the** street may follow the requirements for Urban Frontage (see B).

Amend Section 8.2.8E(1):

8.2.8E(1): Due to the high availability of public transportation in the Medical Overlay District area, any building, structure, or use may reduce the total number of required parking spaces specified in Chapter 4.5, Parking and Loading by up to 25 percent. Where off-street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.

Amend Section 8.2.10E(3):

Where off street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.

Amend the table in Section 8.3.6D by deleting "55" in the row headed "Shopfront" in the column entitled "Building Height" and replacing "11" in both columns in the row entitled "Upper floor height (floor to floor)" to "9."

Amend the "Shopfront Frontage" and "Urban Frontage" pages in Section 8.3.6D by changing the reference in Section 2 under "Required Building Frontage" from "70%" to "50%" and by deleted the section entitled "Floor Height."

Amend the "Shopfront Frontage" page in Section 8.3.6D by changing the references in Sections 1 and 2 under "Required Building Frontage" from "100" ft. to "125" ft.

Amend Section 8.3.9:

Streetscapes S-1, & S-2, S-3 & S-4 apply along Shopfront Frontages.

Amend Section 8.3.10E(2):

...Where fractional spaces result, the parking spaces required shall be construed to be the **next** nest highest whole number.

Insert a new Section 9.24.11:

9.24.11 (new section): Conditional Use Permits and Variances

If a Conditional Use Permit also requires the issuance of a variance, the approval of a variance (see Chapter 9.22) or Planned Development (see Chapter 4.10) will forgo the need for the separate filing or approval of a Conditional Use Permit, provided the required findings for those application types are met.

Amend Section 8.4.8K(3):

Active ground floor use shall be required along public street frontages of parking garages. **A** Permitted Special Exception to this requirement may be **filed** found in **accordance with** Section 8.4.6.

Amend Section 8.4.8C(1)(b):

Any development or portion of a development, adjacent to a designated frontage on the Zoning Map shall comply with the standards established for the designated frontage type.

Amend Section 8.4.8D and 8.4.8J by removing references to "General frontage."

Delete Section 8.5.2A.

Amend Section 8.5.2B:

All land fronting the designated Residential Corridor, for a depth of 200 feet, shall not be eligible for rezoning to a mixed use or nonresidential district <u>nor</u> er shall such land be eligible for a change in use from a residential use to a nonresidential use. Certain civic and institutional uses may be permitted through the special use process (see 9.6).

Amend Section 9.2.2 by changing the symbol for review by the TRC in the row entitled "Right-of-Way Vacation" from "R" to " $\underline{\Delta}$."

Amend Section 9.3.2D:

...Neighborhood or business associations who intend to file a CIS must submit said statement to the Land Use Control Board or governing bodies no later than 5 days prior to the scheduled hearing date. If provided prior to the publishing of the Land Use Control Board staff report, the CIS shall be included within the staff report in a prominent position alongside the Land Use Control Board and Division Office of Planning and Development recommendations. If provided after the publishing of the Land Use Control Board staff report, the CIS will be referenced during the Land Use Control Board public hearing and contained in the materials that are forwarded to the legislative body, where applicable.

Insert a new Section 9.3.2E:

Exigent circumstances. A neighborhood meeting may be conducted through electronic or telephonic means if holding an in-person meeting is impractical due to an ongoing public health crisis or other similar situation that is out of the control of the applicant, provided all notice requirements of this section are met. In addition, a neighborhood meeting may be held after the Land Use Control Board votes on the matter but before the governing body does so in the event the Division of Planning and Development makes a determination that a zoning change is not in compliance with a Chapter 1.9 plan with the publishing of its Land Use Control Board staff report (see Paragraph 9.3.2A(1)). In such an event, all notice and timing requirements of this Section shall still apply, but will be timed in conjunction with date the governing body is expected to vote on the matter.

Amend Section 9.3.4A by changing the symbol in the row entitled "Minor Preliminary [Subdivision] Plans" from "M-AO" to "<u>M</u>" under the column headed "Mailed."

Insert a new Footnote 7 in Section 9.3.4A:

7. A 150-foot radius is utilized for Certificates of Appropriateness.

Amend Section 9.3.4A by deleting "GB-RO" under the column headed "Newspaper Publication" in the rows entitled "Special Uses and Special Use Amendments" and "P.D. Outline Plan and Amendments."

Amend Section 9.3.4A by inserting the word "Major" at the beginning of the row entitled "Certificate of Appropriateness."

Amend Section 9.3.4A by deleted "LM" under the column headed "Newspaper Publication" in the row entitled "Major Certificate of Appropriateness."

Amend Section 9.6.11E(1):

All outline and final plan amendments shall meet the standards set forth in Chapter 4.10, Planned Development. Outline plan amendments shall be given a new case number and apply only to the site subject to the amendment. Areas of the original planned development not subject to the amendment shall retain the original case number. The following modifications to approved outline and final plans shall be deemed amendments:...

Amend Section 9.6.11D(3)(c):

100 feet for final plans of eight acres but less than 20 acres; and

Amend Section 9.6.15B:

Revocation may occur after an evidentiary hearing is conducted by the governing bodies. The governing body may refer the matter to the Land Use Control Board for a recommendation on the revocation prior to its evidentiary hearing. All hearings associated with a revocation shall be open to the public with certified notice mailed to the owner of the property that is the subject of the special use permit or planned development. Mailed notice shall be in accordance with Paragraph 9.3.4D(1).

Amend Section 9.6.13A:

If the governing body votes to deny an application, there may be no subsequent similar application submitted by any party for any part of the subject property until <u>5 years</u> <u>18 months</u> have elapsed from the date of denial, or from the date any appeal thereof becomes final, whichever is later. <u>This 5-year period shall also apply to: 1) those cases on which the Land Use Control Board conducts a vote but are withdrawn before the governing body may act and <u>2) those cases involving modifications</u> (see <u>Sub-Section 9.6.11E and Section 9.6.12) and appeals</u> (see <u>Sub-Section 9.23.1C) on which the Land Use Control Board conducts a vote and no further action by the governing body is taken.</u> The governing bodies may waive the time-lapse requirements of this section where it is in the public interest to do so. For the purpose of this Sub-Section, "similar application" shall be interpreted to include, but is not limited to, the following:</u>

Amend Section 9.8.6B:

Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification, based on the closure type (conversion, physical closure or abandonment). For conversions and physical closures, mailed notice shall also be delivered to all property owners within a three hundred (300) foot radius of the street or alley closing.

Amend Section 9.11.2C:

If streets have been improved, or partially improved, an application for right-of-way vacation in accordance with Chapter 9.8 shall also be **filed** filled.

Amend Section 9.19.1:

Certificates of occupancy are required to **ensure** insure...

Amend 9.22.1B:

The Board of Adjustment shall have authority to vary the standards of this development code, except for those associated with **the creation of** subdivisions (see Sub-Section 9.7.7**F**3-for subdivision waivers).

Amend Section 9.23.1A:

An appeal by any person authorized by Section 9.2.2 to file an appeal and aggrieved by a final order, interpretation or decision of the **Zoning Administrator** Planning Director (see Item 1 above with regards to this amendment), Building Official or other administrator in regard to the provisions of this development code may be taken to the Board of Adjustment. However, an appeal of a minor preliminary plan, as well as those other items articulated in Section 9.2.2, may only be taken to the Land Use Control Board.

Amend Section 9.23.1C(1):

An appeal of an administrative decision shall be filed with the Secretary of the Board of Adjustment or, if <u>directed by Section 9.2.2</u> a special exception or minor preliminary plan, with the Secretary of the Land Use Control Board and with the aggrieved entity, within five days of receipt of the decision unless a different time frame is provided in one of the Chapters of this Article. For non-applicants and other property owners who would not receive notice of an administrative decision under the provisions of this Code, an appeal shall be filed within five days of their receipt of the decision but under no circumstance more than 14 days after the date of the decision.

Amend Section 9.23.2A:

Right to Appeal. <u>Applicants and any other</u> individual appearing and providing vocal objection to, or submitting written comments on, a particular application at a meeting of the Land Use Control Board may appeal a decision of the Land Use Control Board, on said application, to the governing bodies, <u>provided the application type is outlined as appealable to the governing bodies in Section 9.2.2.</u> except where the Land Use Control Board hears an appeal of the Planning Director. Applicants may also appeal decisions made by Land Use Control Board to the governing bodies.

Amend Section 9.23.2E(1):

The appeal shall be scheduled for legislative consideration. Notice shall be sent to the applicant, the appellant <u>and all parties who received mailed notice for the Land Use</u> Control Board meeting under Sub-Section 9.3.4A, any individual appearing or who

submitted written comments at the Land Use Control Board meeting, and members of the Technical Review Committee, not less than ten days or more than 35 days in advance of the scheduled hearing.

Amend "footnote A**" in Section 9.2.2:

Only <u>the subject property owner and</u> those property owners within 1000 feet of the subject property, as measured from property line to property line, may appeal decisions of the Zoning Administrator Planning Director (this amendment is covered above), Building Official or City or County Engineer.

Amend Section 11.1A:

Any person, firm or corporation violating any of the provisions of this development code shall, upon conviction thereof, be fined not more than \$50.00. Each day's continuance of a violation shall be considered a separate offense. In addition to the party violating this development code, any other person who may have knowingly assisted in the commission of any such violation shall be guilty of a separate offense. The City and/or County may also seek an injunction or other order of restraint or abatement that requires the correction of the violation.

Amend Section 12.3.1:

BOARDING HOUSE: A building where lodging, with or without meals, is provided for compensation for five or more persons, who are not transients, by prearrangement for definite periods, provided that no convalescent or chronic care is provided. Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.

ROOMING HOUSE: A dwelling where lodging is provided for compensation for at least one, but not more than four, transients at one time, by prearrangement for a period of less than 30 days. Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.

COMMERCIAL PARKING: Any surface or structured parking that serves an off-site nonresidential use(s), except for those nonresidential use(s) permitted in residential districts such as places of worship and schools.

DROP-IN CHILD CARE CENTER: DROP-IN CHILD CARE CENTER: ...

FRONTAGE:...Access via private access easements across adjacent properties to a public street shall not constitute frontage except for subdivisions and planned developments with private drives as approved by the Land Use Control Board **or governing body**.

GROUP SHELTER: A residence, operated by a public or private agency, which may provide a program of services in addition to room and board to persons on a voluntary basis under continuous protective supervision. This definition does not include supportive living facilities

or personal care homes for the elderly licensed by any duly authorized governmental agencies, or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

NURSING HOME: An establishment which provides full time convalescent or chronic care, or both, for five or more individuals who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, and unable to care for themselves and required skilled medical staff. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

RESIDENTIAL HOME FOR THE ELDERLY: A building where at least two ambulatory persons, of at least 55 years of age, reside and are provided with food and custodial care for compensation, but not including nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

TRANSITIONAL HOME: A residence used for the purposes of rehabilitating persons from correctional facilities, mental institutions, and alcoholic and drug treatment centers and operated by a public or private agency duly authorized and licensed by the state, which agency houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in a community and which provides continuous professional guidance. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agency or in other instances, approved by the director of the Memphis and Shelby County Office of Planning and Development (who shall provide any such applicant with written notice of his or her determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

Amend Section 2.6.2G(3):

...This Paragraph shall not apply to off-site parking that meets the provisions of $\frac{\text{Sub-Item}}{4.5.2\text{C}(2)(e)}$.

LAND USE CONTROL BOARD RECOMMENDATION

CASE #: ZTA 20-1

At its regular meeting on **December 10, 2020**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting amendments to the Memphis and Shelby County Unified Development Code described as follows:

APPLICANT: Memphis and Shelby County Division of Planning and

Development

REPRESENTATIVE: Josh Whitehead, Zoning Administrator

The following spoke in support of the application:

Josh Whitehead, Zoning Administrator Lew Wardlaw Cassandra Dixon

The following spoke in opposition to the application:

Don Jones Britton White

The Land Use Control Board reviewed the application of Memphis and Shelby County Division of Planning and Development requesting amendments to the Memphis and Shelby County Unified Development Code and the report of the staff. A motion was made and seconded to recommend approval of the application, with an amendment to address Mr. Jones' concerns.

The motion passed by a unanimous voice vote (10-0).

The Board approved the conclusions of the staff as contained in the staff report.

Respectfully submitted,

Josh Whitehead Zoning Administrator **CASE NUMBER:** ZTA 20-1 **L.U.C.B. MEETING:** Dec. 10, 2020

APPLICANT: Memphis and Shelby County Division of Planning and Development

REPRESENTATIVE: Josh Whitehead, Zoning Administrator

REQUEST: Adopt Amendments to the Unified Development Code

This version of the staff report reflects the amendments as approved by the Land Use Control Board during its December 10, 2020, meeting.

- 1. Listed below are the more significant amendments associated with this zoning text amendment, or "ZTA." All other items are explained in greater detail in the staff report. Proposed new language is indicated in **bold, underline** while proposed deletions are indicated in **strikethrough**. All changes are reflected in **yellow highlights** to show context in a copy of the complete Memphis and Shelby County Unified Development Code (the "UDC") linked here.
- 2. **Item 3**, as numbered in this staff report, primarily proposes to change two terms found throughout the Code: "Planning Director" and the "Office of Planning and Development." The former will be changed to "Zoning Administrator" and the latter will be changed to the "Division of Planning and Development."
- 3. **Item 4** will include the Memphis 3.0 General Plan in the list of plans to be consulted when an application is filed pursuant to the Code, as well as a reference to the consistency section of the Tennessee Code Annotated.
- 4. **Item 8** will require the issuance of a Special Use Permit from the Memphis City Council or Shelby County Board of Commissioners for new gas stations in the least intensive commercial zoning district, CMU-1.
- 5. **Item 17** will differentiate between establishments selling new and used tires; since the latter are often associated with vehicle repair shops, they will be grouped with them in the use chart. This will require the issuance of a Special Use Permit for used tire sales in the CMU-1 and CMU-2 districts.
- 6. **Item 59** will allow Planned Developments and variances to substitute for a Conditional Use Permit for those projects that need both Conditional Use Permit approval and a variance(s).
- 7. **Item 67** clarifies the process by which Special Use Permits and Planned Developments may be revoked by the Memphis City Council or Shelby County Board of Commissioners and how long a similar application is prohibited from being re-filed after rejection by the legislative bodies and/or the Land Use Control Board.
- 8. Since the original publication of this staff report on September 1, the following changes have been made: **Item 24** has been amended to allow contextual infill waivers for lot widths through the minor subdivision approval process and allows street-facing garages so long as they are located towards the rear of their lots; **Item 42** has been amended to require the "nice" side of wood fences to face the street; **Item 47** has been amended to remove the proposed language regarding billboard direction (90-desgree sectors) and the numbering of interstate routes that govern billboard placement; **Item 64** has been amended to remove the proposed change regarding the notification of neighborhood leaders and to allow post-LUCB neighborhood meetings under exigent circumstances; **Item 67** has been amended to bar similar applications within 5 years of rejection and **Items 4, 59, 64 and 68** have been amended based on comments received; see comments and DPD responses (in yellow) at the end of this staff report. **Items 12** (dealing with reclamation plans for gravel mining operations), **53** (allowing Planned Developments in the Uptown Special Purpose District and the University and Medical Districts) and **73** (dealing with narrow, dormant lots) have been removed entirely.

RECOMMENDATION: Approval

Staff Writer: Josh Whitehead E-mail: josh.whitehead@memphistn.gov

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Proposed language is indicated in **bold**, **underline**; deleted language is indicated in strikethrough.

Front Cover: approval dates

Approval dates of the Land Use Control Board are being added to the cover page of the Code, as well as ordinance numbers of two additional text amendments not already included.

- 2. Table of Contents
 - 10.10: Exception for Historic Multi-Family Properties (capitalize first letter)
- 3. Throughout the Code, and particularly 12.3.1: "Planning Director" and "Office of Planning and Development"

The UDC re-introduced the term "planning director" to the local planning lexicon when it was adopted in 2010. Historically, the head of the Office of Planning and Development ("OPD") has interchangeably been called a "Director," an "Administrator" and/or a "Planning Director." OPD's predecessor organization, the Memphis and Shelby County Planning Commission, was headed by a "director" from 1956 to 1976. Before that, from 1922 to 1956, the local planning department was primarily staffed by one individual, who went by the title "Engineer-Secretary." Organizationally, the Office of Planning and Development is confusingly a department of the similarly-named *Division* of Planning and Development ("DPD"), which, as is the case with other divisions within the City and County governments, is headed by a Director. To add to the confusion, when the Division was created in 1986 as an umbrella organization that contained the newly created Office of Construction Code Enforcement and the then-ten-year old Office of Planning and Development, the latter was not given a distinct name.

The Division is currently undergoing a re-organization that will, in part, place more zoning activities under the department formerly known as the Office of Planning and Development, namely zoning enforcement and sign permitting. To help eliminate the confusion between OPD and DPD, the former will be known as the Division of Planning and Development – Land Use and Development Services. Since a department solely focused on long range planning has been created, the Office of Comprehensive Planning, the term "Planning Director" has become outmoded for the administrator of this department. As is the case in many jurisdictions, the person who is empowered to interpret and administer the zoning code is known as the Zoning Administrator. This proposal will change all references found throughout the Code of "Planning Director" to "Zoning Administrator," including the procedural flow charts found in Article 9.

This proposal will also change references made to the "Office of Planning and Development" to the "Division of Planning and Development." The reorganization of the Division will place sign permits under the downtown offices of the Division. This will involve changing references in 9.3.3 (issuance of sign permits), 9.17 and, Chapter 4.9 made of the "Building Official" to the "Zoning Administrator." Finally, the flow chart in Chapter 9.20 is being changed to reflect the duty of writing Written Interpretations of the Code falling on the Zoning Administrator (a change made to the balance of that Chapter with ZTA 18-1).

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4. 1.9 (and Table of Contents for this Chapter): Consistency with Memphis 3.0 and references to the Major Road Plan

On February 14, 2019, the Land Use Control Board approved Memphis 3.0 as the first General Plan for the physical development of the City, the first citywide long-range plan in nearly 40 years. On December 3, 2019, the Memphis City Council Adopted the plan. As such, the Unified Development Code needs to reflect a key aspect of Memphis 3.0: consistency with its Future Land Use Planning Map. In 2010, the Tennessee General Assembly passed Public Acts Chapter 648 (SB2576/HB2709), which required the state's municipal subunits to adhere to General Plans that they have adopted when they review land use decisions. This is codified into the Tennessee Code as TCA 13-4-202(b)(2)(B)(iii):

Prior to the adoption of the general plan, a legislative body shall hold a public hearing thereon, the time and place of which shall be published in a newspaper of general circulation in the municipality at least thirty (30) days prior to the legislative body's meeting in which the adoption or amendment is to be first considered. *After the adoption of the general plan by a legislative body, any land use decisions thereafter made by that legislative body, the respective planning commission or board of zoning appeals when the board of zoning appeals is exercising its powers on matters other than variances, must be consistent with the plan.* The general plan may be adopted as an element of the jurisdiction's growth plan through the process established in title 6, chapter 58, but if the general plan is not adopted as part of the growth plan, it nevertheless cannot be inconsistent with the growth plan or the intent of title 6, chapter 58 (emphasis added).

With the adoption of this legislation, Tennessee joined many other states that require consistency between planning and zoning; that is, changes to the latter must respect the former. However, Tennessee law does not mandate adoption of a general plan, so it remains known as a unitary state where its comprehensive zoning map can act as a comprehensive plan. Memphis 3.0 was the first general, or comprehensive, plan for the city since the relatively new Land Use Control Board and subsequently Memphis City Council and Shelby County Board of Commissioners adopted the Memphis 2000 Policy Plan in 1981. Since its adoption more than a year ago, Memphis 3.0 has been used, in part, as a guide for OPD's review of individual land use applications. Decisions within the City of Memphis.

The language below will reference TCA 13-4-202(b)(2)(B)(iii) in a new Sub-Section 1.9A, reference the Memphis 3.0 General Plan to guide consistency in a new Sub-Section 1.9B, explicitly state that Memphis 3.0 does not replace the required findings of fact for individual land use decisions found elsewhere in the Code in a new Sub-Section 1.9C and include all of the current list of neighborhood plans approved by the Memphis City Council and Shelby County Board of Commissioners found in this section as a new Sub-Section 1.9D:

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.

B. Determination of Consistency.

When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. The boards and bodies are responsible for making their own determination of consistency but shall consider the determination of consistency made by the Division of Planning and Development and any comments made by affected citizens and neighbors when doing so.

C. Memphis 3.0 and this Code

The Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.

<u>D.</u> The following plans shall be considered in any decisions under this development code...

5. 1.12: Remove spaces

Throughout the Code, there is no space between the capital letter of a Sub-Section and the Arabic number of a Paragraph; this lack of a space should be reflected in Chapter 1.12 of the Code that covers its numbering:

Paragraph 3.1.1A(1) [Example Text] Item 3.1.1A(1)(a) [Example Text] Sub-Item 3.1.1A(1)(a)(1) [Example Text]

6. 2.2.3C(2), 2.2.3C(3), 2.9.2A, 8.2.9F, 8.3.12F and 12.3.1: Upper-story residential

The Code uses both the term "upper story residential" and "upper-story residential" (note the hyphen in the latter). This proposal will alter Paragraph 2.2.3C(2), Paragraph 2.2.3C(3), Sub-Section 2.9.2A and Section 12.3.1 to contain a hyphen. On a separate matter, the definition of this term in Section 12.3.1 does not match the definitions in Sub-Sections 8.2.9F and 8.3.12F, which were written at a previous time before the UDC was completed. As such, the following two amendments are proposed to universalize the term "upper-story residential" throughout the Code:

- 8.2.9F Upper-Story Residential. <u>See definition in Section 12.3.1.</u> A residential unit on the upper floors of a permitted nonresidential use.
- 8.3.12F: Upper-Story Residential <u>See definition in Section 12.3.1.</u> A residential unit on the upper floors of a permitted nonresidential use.

7. 2.4.1, 9.2.2, 9.3.3, 9.3.4A and 9.5.12: Floodway and floodplain overlay

The Floodway zoning district and the Floodplain Overlay is determined by the Federal Emergency Management Agency ("FEMA") through their Flood Insurance Rate Maps ("FIRMs"). The Floodway zoning district ("FW") typically follows the major waterways in the community and prohibits all construction and the Floodplain Overlay district ("-FP") limits construction. FEMA typically updates the FIRMS every seven or eight years, at which time the City Council and the County Commission will memorialize them into zoning map through the adoption of a comprehensive rezoning. However, the rezoning process is unnecessary in the future given the language of Section 8.8.3B of the Code, which incorporates FEMA's FIRMs by reference. Also, the FIRMs are subject to change immediately after they are adopted through individual Letters of Map Revision (LOMRs), which remove properties from the 100-year floodplain upon individual property owner's requests. By removing the requirement that the City Council and County Commission actually rezone properties into the Floodplain Overlay, there will no longer be a question as to whether a LOMR by itself removes a particular property from the floodplain of if a separate rezoning is also necessary. It also reduces the mapping errors presented by the fact that the Floodplain Overlay is shown as a separate zoning district on the zoning map and not as a standalone overlay layer, thus increasing the likelihood of mapping errors. This proposal will involve changes to the following individual sections of the Code:

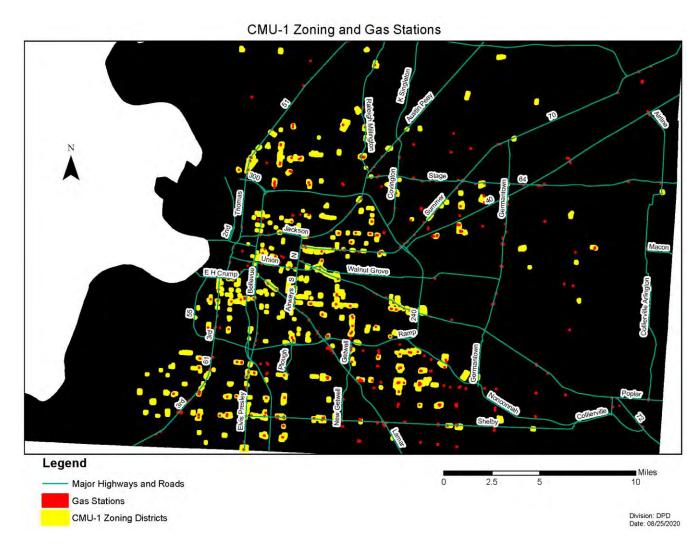
2.4.1:...The Floodway (FW) and Floodplain Overlay (-FP) districts on the Zoning Map are generated, maintained and modified by FEMA; see Sub-Section 8.8.3B.

- 9.3.3 (footnote*): *Only the body(s) may initiate a request for a comprehensive rezoning (see Sub-Section 9.5.12A), with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps.
- 9.2.2 and 9.3.4A: (remove the row entitled "FEMA Floodway and Floodplain Maps").
- 9.5.12A:...Only the legislative bodies may initiate a comprehensive rezoning, with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps...
- 9.5.12B:... In addition, this procedure may be used to comprehensively zone properties in accordance with Federal Emergency Management Agency floodway and floodplain maps.
- 8. 2.5.2 and 2.6.3J(1)(g) (new section): Gas stations and convenience stores with gas pumps

There are three primary commercial zoning districts articulated in the Code, based on level of intensity: CMU-1, CMU-2 and CMU-3, with CMU-1 typically being in the closest proximity of residential zoning districts. This is reflected in the Use Table in Section 2.5.2, which generally only permits low-intensive uses in the CMU-1 district. However, convenience stores with gas pumps and gas stations are permitted in the CMU-1 district. This proposal would allow those gas stations that already exist in the CMU-1 district to expand and rebuild, but would require any *new* gas station in these districts to be reviewed by the Memphis City Council or Shelby County Board of Commissioners through the Special Use Permit process. This will involve changing the solid box ("■") in Section 2.5.2 for this use in the CMU-1 zoning district to a hollow box ("□"), as well as the following amendment to Item 2.6.3J(1)(f).

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2.6.3J(1)(g): (new section) Any convenience store with gas pumps or gas stations constructed in the CMU-1 district after January 1, 2021, or reactivated after one year of discontinuance, shall require the issuance of a Special Use Permit. Convenience stores with gas pumps and gas stations construction in the CMU-1 district prior to January 1, 2021, may be expanded and modified under the provisions of this Code. In addition to the approval criteria articulated in Section 9.6.9, the Land Use Control Board and governing body shall also consider the proximity of the proposed convenience store with gas pumps or gas station to both 1) other convenience stores with gas pumps and gas stations and 2) single-family residential zoning districts when reviewing an application for a Special Use Permit pursuant to this Item.



This map above reflects the locations of the CMU-1 zoning district throughout the City of Memphis and unincorporated Shelby County in yellow and the location of gas stations in red; please note that Lamar Avenue from Bellevue on the west to I-240 on the east/south has

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largely been rezoned to CMU-1 as a result of the City Council's passage of OPD Case No. Z 20-04.

9. 2.5.2: Standalone car washes

This use needs to be moved from its current use category in the Use Table (Retail Sales and Service) to a new use category (Vehicle Sales Service and Repair) since the latter is more appropriate for this use and can be found more readily by the reader.

10. 2.5.2 and 2.6.3R(2): Crematoria and sales of funeral merchandise

The use chart in Section 2.5.2 allows all funeral establishments, including crematoria and pet crematoria in the CMU-1 commercial zoning district by issuance of a Special Use Permit. This is misleading given that Paragraph 2.6.3R(2) only allows funeral directing and sales of funeral merchandise by Special Use Permit in the CMU-1 district. Also, since the sales of funeral merchandise where no funeral services are held are essentially commercial uses, they should be permitted in the CMU-1 district by right. This proposal will split what is now one use type in Section 2.5.2 into three to address this apparent conflict; the first one ("funeral homes, funeral directing") would require a Special Use Permit in the CMU-1 district, the second one ("sales of funeral merchandise") would be allowed in the CMU-1 district by right and the third ("all other funeral establishments, including crematorium and pet crematorium") would be excluded from the CMU-1 district. As is the case today, all three would be permitted by right by in the CMU-2, CMU-3, CBD, EMP and IH districts.

Funeral homes, funeral directing
Sales of funeral merchandise
All other funeral establishments, including crematorium and pet crematorium

Now that Section 2.5.2 is clear on which funeral uses are permitted in which district, the following section may be deleted:

2.6.3R(2): Establishments engaged solely in the practices of funeral directing or selling funeral merchandise, as defined in Section 12.3.1 of this Code, may be permitted in CMU-1 districts by Special Use. No other funeral establishments, as defined herein, shall be permitted within CMU-1 districts.

11. 2.6.2I(2): Cell towers

The cell tower section of the Code is overcomplicated in that it repeats the same regulations for various types of cell towers (those that require a Special Use Permit, those that are permitted by right in the non-industrial zoning districts and those that are permitted by right in the industrial zoning districts). This proposal simplifies this section of the Code. The first section of this portion of the Code affected by this change is the heading of Paragraph 2.6.2I(2) since it will cover all cell tower types and not just those process through Special Use Permits:

2.6.2I(2): CMCS Towers Special Use Review - All Tower Types

Also, the heading of the first section of that Paragraph, Item 2.6.2I(2)(a), and the first section of that Item, Sub-Item 2.6.2I(2)(a)(1) need to change:

2.6.2l(2)(a): <u>Towers reviewed under the Special Use Permit process</u> <u>This Item shall apply to any tower that requires a Special Use Permit.</u>

1. Application

The application for a special use permit approval (see also Chapter 9.6) shall include the following...

Also, the requirement that a licensed engineer certify that a tower can withstand winds, etc., should be moved from the section regarding the Special Use Permit application to a new section requiring this prior to the issuance of a building permit for *all* cell tower types, which is the practice today:

2.6.2I(2)(I) (new section): (moved from existing Sub-Sub-Item 2.6.2I(2)(a)(1)(b)) <u>Prior to the issuance of a building permit, a</u> study from a professional engineer <u>shall be submitted</u> which specifies the tower height and design including a cross-section of the structure, demonstrates the tower's compliance with applicable structural standards, including a certification that the tower will withstand at a minimum sustained winds in accordance with the appropriate building code, and a description of the tower's capacity, including the number and type of antennas which it can accommodate.

This will also involve amending the language allowing setback waivers in the industrial districts, since they will now be located in the same section as those outside of the industrial zoning districts, as well as moving what is now Sub-Item 2.6.2I(3)(b)(3) into sec. 2 below:

2.6.2l(2)(d): Setbacks and Spacing

- 1. CMCS facilities shall adhere to the setback requirements of the zoning district in which they lie. In addition, the CMCS tower shall be set back a minimum of 150 feet from any adjacent, habitable single-family residential dwelling existing at the time of the application of the CMCS facility, as measured from the centerline of the proposed CMCS tower to the outer wall of the closest point of the adjacent dwelling. Exceptions to the minimum setback requirements of the zoning district may be permitted through <a href="the the through through the through the through through through the through through through the through through through the through through the through through the through through the through through through through through through the through through through through through through through the through through the through th
- 2. All CMCS towers <u>located outside of the industrial zoning districts</u> must be spaced a minimum distance of one-quarter mile as measured from property line to property line. **This provision may be waived through the Special Use Permit process.**

This proposal will also repeat a requirement that all towers, structures and other ancillary structures be removed within 180 days of a cell tower going out of service. This language is currently found in Sub-Item 2.6.2I(2)(c), which only applies to towers approved through the Special Use Permit process on public land, and Item 2.6.2I(3)(I), which only applies to towers approved by right in the non-industrial zoning districts. The former section also contains a requirement that a bond or other surety be posted to guarantee the removal from public property. By adding language to a new Paragraph 2.6.2I(2)(d), all cell towers are to be removed within 180 days:

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2.6.2l(2)(j) (new section): Any facility which has ceased operations for a period of 180 continuous days shall be dismantled and removed from the site at the owner's expense.

12. 6.5.1: Land reclamation at gravel mining operations

This proposed amendment has been removed from consideration.

- 13. 2.6.4H: Grammatic error
 - 2.6.4H: A container building is any principal or accessory structure used for a purpose other **than** a dwelling unit that is wholly or partially located within a shipping container.
- 14. 2.7.1A: Grammatic error

Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal <u>use</u> uses...

15. 2.7.2A(4) and 12.3.1: Accessory structures in residential front yards

The Code currently prohibits accessory structures that are "forward" of residential structures, but this could arguably permit an accessory structure, such as a detached garage, within a lot's front yard but to the side of the structure. The language below clarifies that no accessory structure shall be located in residential front yards. This will also involve revising the definition of "front yard" and "required front yard," to define the former as any area between the street and the existing home on a lot, regardless of whether that home is set back beyond the required set back.

2.7.2A(4): In single-family, open and residential zoning districts, no accessory structure shall **be located within the front yard** extend forward of the front building...

12.3.1:

YARD, FRONT: A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front façade of the principal building on the lot, or any projection thereof.

YARD, FRONT <u>(REQUIRED)</u>: A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front lot line at the required building line on the lot, or any projection thereof.

16. 2.7.6: Swimming pool equipment in the side yard

Section 2.7.6 addresses pool equipment in the side yards of lots. This language slightly differs from Item 3.2.9E(5)(a), which allows such placement provided the equipment is screened from the street. The following changes will insert a cross-reference from Section 2.7.6 to Item 3.2.9E(5)(a):

2.7.6: Swimming Pools: A swimming pool or the entire property on which it is located shall be walled or fenced to prevent uncontrolled access to such swimming pool from the street

or from adjacent properties. Such swimming pool shall not be located in any required front yard and shall not be closer than five feet to any property line. Swimming pool equipment en residential lots may encroach into be located within the side yard setback, subject to so long as it is at least five feet from the property line and is screened from any public right of way. See Item 3.2.9E(5)(a), Encroachments.

17. 2.9.4J: Tire sales

A comprehensive rezoning of properties along Lamar Ave. (OPD Case No. Z 20-04) reclassified many of these parcels that are currently in the CMU-3 zoning district to the CMU-1 zoning district. The primary purpose of this comprehensive rezoning initiated by the Memphis City Council, as well as the building permit moratorium also approved by Council that promulgated it, was to disallow the further proliferation of uses allowed in the CMU-3 district but not the CMU-1 district. These uses include many vehicular-oriented establishments, particularly vehicle repair and used tire sales. However, both the CMU-1 and CMU-3 zoning districts allow tire sales establishments since both new and used tire sales establishments are classified as "vehicle service," the lowest intensity vehicular-oriented type of establishments. Rather than change the zoning code to prohibit all tire sales establishments in the CMU-1 zoning district, this proposal would differentiate between new and used car sales establishments since the latter are of similar intensity as vehicle repair, which is not permitted in the CMU-1 district. In fact, a few new tire sales establishments around town are located in the CMU-1 district and are appropriately sited (see list below, particularly the properties in *italics*); it would not serve the public interest to convert those sites into nonconforming uses.

- 1. Goodyear, Union and Bellevue: CMU-3
- 2. Firestone, Madison and Camilla: CMU-3
- 3. Pep Boys on Poplar at Merton: CMU-3
- 4. Gateway on Poplar across from East: CMU-1
- 5. Firestone, Poplar and Highland: CMU-1
- 6. Goodyear, Winchester and Kirby: PD: CMU-1
- 7. Gateway, Macon just E of Germantown Pkwy: PD: CMU-2
- 8. Raleigh Tire. Germantown and Club Center: PD: CMU-2
- 9. Firestone, Mt. Moriah and Park: CMU-3
- 10. Firestone, Summer just W of White Station: CMU-3
- 11. Firestone, Winchester across from Hickory Ridge Mall: PD: CMU-2
- 12. Jackson Tire and Alignment, Jackson and Bayliss: CMU-3
- 13. Firestone, Austin Peay at Singleton Pkwy: PD: CMU-2
- 14. Gateway Tire, Covington Pike N of Yale: PD: CMU-2

This proposal will differentiate new and used car sales establishment by amending the list of uses included under both "vehicle service" and "vehicle repair" that is included in Sub-Section 2.9.4J.

Principal Uses

Vehicle service including...new tire sales and mounting Vehicle repair including...used tire sales and mounting

18. 2.9.4J: Automobile service stations

This section lists "automobile service stations," which is not a defined term in Sec. 12.3.1 of the Code, as a type of auto repair use. Presumably, a service station is a gas station that provides some automotive service. However, gas stations are required to be at major intersections while auto service is *not*. This conflict, which could be interpreted as allowing a service station at a site that prohibited a gas station, can be corrected by striking "automobile service station" from Sub-Section 2.9.4J (vehicle sales, leasing, repair and service) since this use is already listed in Sub-Section 2.9.4H (retails sales and service).

19. 2.9.5D: Towing services

A wrecker service with an impound lot is considered by the Code as an industrial use while a towing service without an impound lot is considered a commercial use. The former is listed under Sub-Section 2.9.5D and the latter is listed under Sub-Section 2.9.4J; this proposal will add a cross-reference to Sub-Section 2.9.5D to assist in the administration of this distinction:

... Impound lot, wrecker service includes city wreckers, auto storage, excluding those impound lots permitted under Sub-Section 2.9.5B <u>and those towing services permitted</u> under 2.9.4J

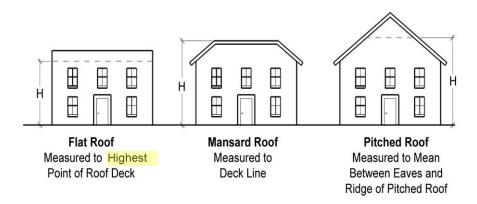
20. 3.1.3B: Grammatic error:

...developments with multiple single-family detached and single-family attached housing types on a single tract, or lot, or site are subject to the site plan review process.

21. 3.2.6A(1) and (6): Building height

In the building height section, the narrative of Paragraph 3.2.6A(1) conflicts with its graphic, as the former says building height is measured from the highest point of a flat roof and the graphic says it is measured from the lowest point of a flat roof. This proposal would correct the graphic to match with the language of the narrative:

3.2.6A(1):



In Paragraph 3.2.6A(1), the term single-family detached is repeated; the second reference should be single-family *attached*:

3.2.6A(6): Additional height above that permitted in the district or shown on an officially adopted height map may be permitted though the special exception process (see Chapter 9.14), except for all single-family detached and single-family <u>attached</u> detached housing types.

22. 3.3.1B and 3.3.1G(1): Lots

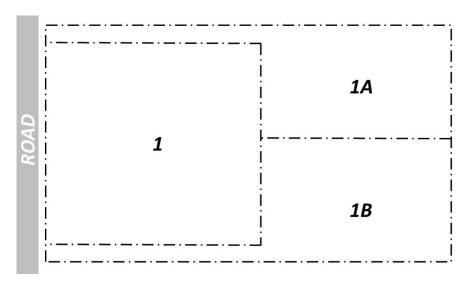
The beginning of Sub-Section 3.3.1B covers two important matters involving lots: the fact that all lots must have frontage on a public roadway and that an alley may not constitute a roadway for frontage purposes. After that, this section states that lots along arterials must be at least 100 feet wide. This provision did not exist prior to the adoption of the Unified Development Code in 2010 and, under an interpretation that has attempted to be made by citizens opposed to at least one particular subdivision, would result in tens of thousands of nonconforming lots around the city. These existing lots that contain less than 100 feet in width front such roadways as Poplar, Walnut Grove, Park Ave., Southern, Central, Madison, Peabody, McLemore, South Parkway, North Parkway, East Parkway, Person, Kimball, Rhodes, Barron, Quince, Mitchell, Raines, Shelby, Holmes, Neely, Milbranch, St. Elmo, Frayser, Overton Crossing, Whitney, Raleigh-LaGrange, Tillman, Holmes, Highland, Waring, Perkins, Mendenhall, White Station, Trinity, Houston Levee, Collierville-Arlington, Navy, Raleigh-Millington, Hickory Hill, Kirby, Riverdale, Hacks Cross and Forest Hill-Irene, all of which are arterials, thus creating tens of thousands of nonconforming lots. This results in the inability of any building permit being issued for homes on these lots until variance action could be taken by the Board of Adjustment. While it was admirable for the drafters of the UDC to prevent a proliferation of curb cuts along these roadways, the resulting chaos in the marketplace is unwarranted. Lot frontage should be governed solely by the lot width requirements of the zoning district. In addition, the following amendment would delete the minimum lot with of 16 feet for flag lots, a provision that is already contained in the flag lot regulations of the Code (specifically, Paragraph 3.3.1G(2)).

3.3.1B: Unless otherwise approved, each lot must have frontage on a public street or an approved private drive. An alley may not constitute frontage. In no instance shall the minimum required frontage be less than 16 feet. No single-family detached or single-family attached unit with a frontage of less than 100 feet may have direct access to any street classified as an arterial or larger. Single-family detached or attached units with a frontage of less than 100 feet may be located along a public street or approved private drive classified as an arterial or larger provided that access to the units is in the form of either a frontage road or rear alley access (see <u>Sub-Section 5.2.7F</u>).

Paragraph 3.3.1G(1) prohibits multiple flag lots from abutting one another. This language was new with the adoption of the Unified Development Code in 2010 and at least partly in response to two developments in Eastern Shelby County that avoided the subdivision review process by consisting of exempt, four-acre tracts organized as flag lots. Here is an aerial of one of those developments, demonstrating the multiple flag lots that all technically have the prerequisite amount of road access:

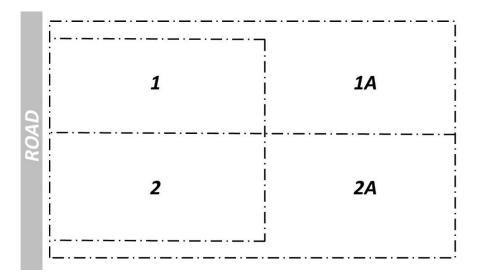


The outright prohibition of multiple abutting flag lots found in the Code today is inappropriate due to two reasons: 1) it prevents the filing of a subdivision application to achieve the layout of multiple flag lots such as the one pictured above, its purported purpose, and 2) it prevents small flag lot developments that accommodate the division of property among family members. The language proposed for this section of the Code corrects both of these issues. See image below, where the owner of Lot 1 would like to create two flag lots, Lots 1A and 1B. This two-lot flag lot creation would be permitted under the proposed language, either as exempt tracts (if large enough) or as a subdivision.



See image below, where the owner of Lot 2 would like to create a flag lot, 2A, but after the property owner of Lot 1 has already created Lot 1A, also a flag lot. The proposed language

below would not preclude the owner of Lot 1 from doing this because it deletes the carte blanch prohibition on a "series" of flag lots being located along the same roadway.



3.3.1G(1): Where a flag lot is required to provide access to a landlocked area, no more than two ene flag lots may be created without necessitating the filing of a subdivision, notwithstanding the subdivision review exemptions of Sub-Section 9.7.3. This Paragraph shall not apply to any flag lot created before the adoption of this Code (a series of flag lots accessing the same roadway is not allowed).

23. 3.7.2B: Percent of housing types

This section of the Code addresses setbacks and other bulk provisions for the multi-family zoning districts, the RU-3, RU-4 and RU-5 districts. In addition, it sets a maximum percentage of building types for sites over 10 acres and for sites 1-10 acres. The intent behind these regulations is to encourage a mixture of different types of residences and prevent monolithic developments. This intent is better manifested on large lots of over 10 acres than those less than 10 acres, so this proposal would eliminate the 1-10 category in the tables for the RU-3, RU-4 and RU-5 districts. The tables for the RU-3 and RU-4 districts allow a 100% apartment community but does not allow a 100% conventional single-family community, which would appear to be counterintuitive. Also, the table RU-5 allows 100% for *all* housing types, so its deletion would have no effect on current regulation.

24. 3.9.1A, 3.9.2A, 3.9.2B(4), 3.9.2H and 3.9.2I: Contextual infill standards

Contextual infill standards for new subdivision and homes, which includes regulations regarding garage placement, lot width, front yards, etc. took effect with the adoption of the Unified Development Code in 2010. Most of the homes in Memphis and Shelby County built prior to that date do not meet these regulations, so the following language is required to make it clear that modifications to these homes may occur without a variance:

3.9.1A(1): The garage and carport placement requirements of this Section and Sub-Section 3.9.2H shall apply to all housing types within any site subject to Section 3.9.2.

Garages and carports constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.

3.9.2A: The following standards are intended to accommodate the majority of infill development in existing residential neighborhoods. They have been crafted to allow an applicant (and staff) to look to the surrounding "context" for guidance in construction. These standards are intended to encourage reinvestment in existing neighborhoods and reinforce the traditional character of established residential neighborhoods. Dwellings constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.

The Code allows for the waiver of the regulations that make up contextual infill standards for new subdivisions. The section of the Code below, which is located within Article 3, allows such waivers to be approved through the subdivision process; however, Paragraph 9.7.6G(1) requires that minor subdivisions (those that may be approved administratively by staff) meet all of the provisions of Article 3 be met. The proposed language below would clarify that any waivers of the contextual infill standards would need to be approved by the Land Use Control Board in a duly noticed public hearing as a *major* subdivision and not by staff as a minor subdivision, with the exception of waivers regarding lot width. This exception is necessary because many neighborhoods prefer two narrower lots that meet the width requirements of the zoning code but not necessarily the contextual infill standards over the alternative, which are flag lots. Removing the ability for minor subdivisions to receive width waivers would incentivize flag lots since their widths are measured at their building line and would not require a width waiver.

This proposal would also allow the Landmarks Commission to waive certain aspects of the contextual infill standards, such as size or porch, through its interpretation and administration of the historic overlay design review guidelines in its approval of Certificates of Appropriateness, also made during a duly noticed public hearing.

3.9.2B(4): The lot width provisions of this Section may be waived through either the major or minor subdivision approval process; all other provisions of this Section may be waived through the major subdivision approval process, provided a determination is made that no substantial harm will be imposed upon the health, safety and welfare of the surrounding neighborhood. The provisions of this Section may also be waived through the approval of a Certificate of Appropriateness by the Memphis Landmarks Commission.

3.9.2H is the section of the Contextual Infill Standards that covers garage placement. Two changes are proposed below; the first will provide clarity to what the Code currently refers to as "the dominant character" by defined that this means at least half of the homes on the block. The second change references the Code section that contains the graphic where garage placement is covered (Section 3.9.1) and further allows street-facing garages and carports so long as they are located in the rear of the lot.

3.9.2H: Garages and Carports. Street-facing garages and carports may be allowed if an alley is not present and <u>at least half of the structures on the same block face feature</u> street-facing garages or carports are part of the dominant character of all properties fronting on the same block face. <u>In these instances, the garage or carport placement</u>

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must meet the standards of Section 3.9.1. In all other instances, street-facing garages and carports are only permitted if they are located at least 100 feet from the right-of-way and at least 50 feet behind the front façade of the structure.

Finally, this section has a grammatical error:

3.9.2I:..A minimum porch depth of six feet may be approved by the **Zoning Administrator** Planning Director (see Item above for this change) if any property on the same block face has a front porch less-six feet **or less** in depth.

25. 3.10.2B(1): Incorrect reference

The minimum front and side street setbacks of 20 feet as specified in **this** Sub-Section 3.10.1A above may be reduced to zero feet provided the following provisions are met...

26. 3.10.2B: Missing slash ("/")

Side/rear abutting single-family

27. 3.10.2C: Housing in non-residential districts

This table highlights the setbacks, lot width and other lot dimensions for certain housing types permitted in the non-residential zoning districts. However, it omits two important setbacks: the front setbacks for conventional and side yard homes. This proposal will replace the "--" symbol for these two housing types with "20" to align with not only the other types of housing in these zoning districts but similar tables in Section 3.7.2.

28. 3.10.3G(3)(b) and 3.10.3G(3)(c): Redundancy

These two sequential sections read the same; the latter should be deleted.

29. 4.3.3: Streetscape plates along private drives

Sub-Section 4.3.1C reads "Private streets and drives are exempt from the streetscape standards provided in this Chapter unless conditioned otherwise by the Land Use Control Board, Board of Adjustment or legislative bodies," but Section 4.3.3 states that private streets are required to contain streetscapes. The following language will correct this conflict, as many private drives amount to nothing more than parking lot aisles:

4.3.3: The following streetscape plates must be installed along public and private streets abutting the subject property.

30. 4.3.5B(2): Incorrect numbering

For S-6, S-7, S-2 9, S-12 and S-13 plates, trees shall be planted no more than 4' behind the back of curb.

31. 4.4.7D: Misspelling

No obstruction to cross visibility shall be deemed to be <u>excepted</u> accepted from the application of this section because of its being in existence at the time of the adoption hereof, unless expressly exempted by the terms of this section.

32. 4.4.8D(2): Correct terminology and a typo

This section of the Code requires an amendment to change the verb "amended" to "modified" since the type of change involved (reflecting the installation of a gate or guardhouse on a plat) would involve a minor or major modification to a subdivision plat or plan and not an amendment, which involves a separate process. Also, there is an "a" that needs to be removed from this section:

A subdivision plan or plat or planned development outline or final plan must be **modified** amended to indicate the location of gates, guardhouses and any realignment of common areas or infrastructure associated with the gates and guardhouses. The installation of a gates and guardhouses in subdivisions...

33. 4.4.8D(3): Typo

For the purposes of the appeals processes outlined in Chapters 9.6 and 9.7, only the applicant, homeowners <u>association</u> or property owners association may appeal the determination of the <u>Zoning Administrator</u> Planning Director (this amendment is covered above) to the Land Use Control Board.

34. 4.5.2: Parking on grass

Section 14-4-92C of the Memphis Code of Ordinances (part of the City's residential maintenance code) reads: "All vehicles parked or stored in single-family residential, duplex or multifamily zoning districts shall be parked or stored on asphalt, concrete or other hard surface dustless materials as approved by the city or completely enclosed within a building." To allow zoning inspectors to make citations for parking in the grass (in addition to code inspectors that administer the city's residential maintenance code), the following language is proposed:

4.5.2E (new section): Parking on grass Except as provided in Paragraph 4.5.5C(2), parking on grass in the residential zoning districts is prohibited.

35. 4.5.2C(2)(e)(1), 4.5.3A(1) and 4.5.3B: Incorrect cross-reference to Alternative Parking Plan section

... Section <u>4.5.4</u> **F**)...

36. 4.5.3B: Misspelling

...SBC**B**ID...

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37. 4.5.5D(2)(b): Grammar and misspelling

If seeking preservation credits under for an existing tree located in an interior island, terminal island, or perimeter island then such island must provide a nonpaved area...

(in graphic): Terminal Terminial

38. 4.6.4F(2)(g): Incomplete sentence

Where other uses, including <u>All</u> pedestrian, bike or other trails within <u>landscaping and</u> screening areas these uses must be maintained to provide for their safe use.

39. 4.6.5J(3)(b): Unnecessary comma

Sight proof fences must be constructed of materials, such as treated wood and wrought iron...

40. 4.6.5L: Ownership of buffers

This section of the Code allows a buffer to be owned by the property owner of the land providing the buffer or allow him or her to transfer it to a conservancy or related organization. The following change from "shall" to "may" will make the first part of this section match its second part:

Buffers shall <u>may</u> remain under the same ownership as the property providing the buffer; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the City or County, an approved land conservancy or land trust, or a property owners association...

41. 4.6.5M(2): Grammatical error

Financial hardship due to meeting the requirements of this is section shall not be sufficient justification for alternative compliance.

42. 4.6.7: Fencing

There is a contradiction between Paragraph 4.6.7E(4), which allows uncoated chain link fencing in the industrial zoning districts, and Paragraph 4.6.7E(1) which sets out permissible materials for all fencing but does not include uncoated chain link fencing. This contradiction can be addressed with the following proposed strikethrough. Also, stucco is added as an acceptable type of masonry for walls.

4.6.7E(1): Permissible Materials. Fences and walls must be constructed of high quality materials, such as decorative blocks, brick, stone, masonry panels, **stucco**, treated wood and wrought iron; and, where permitted, vinyl-coated chain link. Electrified fences, barbed wire or concertina wire fences are not permitted in a residential district.

This section will also need to be amended to make it clear where coated chain link fencing is required:

4.6.7E(4): Chain-Link Fences. Uncoated chain-link fences are not permitted except in the EMP, WD, and IH districts. Chain-link fencing <u>in all other districts</u> must be galvanized, polyvinyl chloride (PVC) color coated in either black, dark green or dark brown color coatings and part of an evergreen landscape screening system. At the intersection of a driveway and a street and on all corner sites (the intersection of two streets), a clear sight triangle shall be established as set forth in Section 4.4.7.

Currently, the Code does not explicitly state that the "nice" side of the fence (the side without the exposed posts and rails) shall face the street. A new Paragraph 4.6.7E(6) will address this by stipulating that all wood fences shall have the nice side facing the street:

4.6.7E(6): (new section) Fencing Facing Public Streets. Any side of fencing with exposed posts and rails shall not face public streets in the residential and open zoning districts.

Sub-Section 4.6.7F allows the Planning Director (to be known as the Zoning Administrator under this ZTA), to approve additional fence height, reduced setback, etc. for certain fences. The proposed language allows alternate fence design, which would cover instances in which the request involves, as an example, brick piers at a frequency differing from that outlined in the Code.

4.6.7F: Administrative Deviation. The **Zoning Administrator** Planning Director may permit additional fence material, alternate fence design, additional fence height, or reduced setback through the administrative deviation if it is determined that such allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood. Factors to be considered by the **Zoning Administrator** Planning Director when making such an administrative deviation shall include the material, height or setback of fencing in the immediate vicinity of the subject site, the classification of the roadway abutting the subject site and the proposed use of the subject site (see Chapter 9.21).

43. 4.6.8A(2): Redundancy

This section of the Code may be deleted as it is redundant with the section that follows it:

4.6.8A(2): Where allowed, drive thru windows and lanes placed between the right-of-way of primary street and the associated building require landscape plantings and/or berms installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way (not including an alley).

4.6.8A(3): Drive-thru windows and lanes placed between the right-of-way and the associated building require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way (not including an alley). Such screening must be a compact evergreen hedge or other type of dense foliage as permitted in Section 4.6.9. At the time of installation, such

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screening must be at least 36 inches in height and reach a height of 48 inches within two years of planting.

44. 4.6.8B(2) and 4.6.9C: Misspellings in the landscaping ordinance:

4.6.8B(2):Compatibly Compatibility of material is subject to...

4.6.9C (Tree E): Yaupon Holy Holly

45. 4.8.4B(3)(b): Outdoor storage

The following two sections of the Code concern outdoor storage requirements. Sub-Item 1 requires a clarification in that the only regulation waived for properties not within 500 feet of single-family residential districts is the language in that Sub-Item and not the rest of the outdoor storage section. Sub-Item 3 is no longer necessary since Sub-Item 2 before it addresses the same issue: that outdoor storage is prohibited within close proximity of the public right-of-way.

4.8.4(B)(3)(b)

- 1. General outdoor storage shall be screened along the public street and any public access easement by a Class III buffer as set forth in Section 4.6.5. In situations where general outdoor storage is located abutting or across the street from a residential district, such screening shall be high enough to completely conceal all outdoor storage from view. General outdoor storage on sites in the EMP, WD and IH Districts that are not within 500 feet of singlefamily residential zoning districts, as measured along the public right-of-way, are exempt from this **Sub-Item** requirement.
- 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
- 3. No general outdoor storage shall be permitted in a front setback area.

46. 4.9.1C, 4.9.6L and 8.3.13G(7): Wayfinding

The Code uses the terms "way finding," "way-finding" and "wayfinding." This proposal will change language in the sections cited above to "wayfinding."

47. 4.9.2, 4.9.8: Billboards

The following proposal involves the section of the Code dealing with billboards; these proposed amendments reflect current interpretations and would not result in a change in how the current regulations are administered.

4.9.2B(4), (5) and (6): Billboards downtown

These three sections of the Code redirect the reader to the Downtown Memphis Commission's sign code that is codified elsewhere in the Memphis Code of Ordinances. However, that code does not address standalone, or detached, off-premise advertising (billboards). The language below will make this clear:

4.9.2B(4): Signs located in the Central Business Improvement District (CBID), other than those classified as off-premise advertising signs established before January 23, 1973, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). Off-premise advertising signs in the CBID established before January 23, 1973, shall be governed by Section 4.9.8 of this Code.

4.9.2B(5): Signs located in the South Central Business Improvement District (SCBID), other than those classified as off-premise advertising signs established before January 7, 1997, shall be subject only to the provisions of Memphis City Code §\$12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). Off-premise advertising signs in the SCBID established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.

4.9.2B(6): Signs located in the Uptown District (U), other than those classified as off-premise advertising signs established before January 7, 1997, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). Off-premise advertising signs in the Uptown District established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.

4.9.8G(1) and 4.9.8G(3): Contradictory separations from the interstate

Paragraph 4.9.8G(1) of the Code contains the minimum setback from the interstate highway. However, it contains a confusing "and/or" between two measurements: a minimum 20-foot setback from the right-of-way and a 100-foot setback from the emergency lane. This "and/or" should be clarified in such a way to allow a billboard to be closer to the interstate highway, which will effectively more it further from whatever commercial, residential and other uses may lie on its other side.

4.9.8G(1): No portion of a detached sign, if it is legible from the interstate freeway, shall be closer than twenty (20) feet from the interstate freeway right-of-way and/or one hundred (100) feet from any emergency stopping shoulder lane, whichever is less.

In addition, Paragraph 4.9.8G(3) states that billboards are not to be located within 100 feet of residentially-zoned property. This section should be clarified to read this does not include interstate highways, which are zoned residential, since the section above allows billboards within 20 feet of interstates:

4.9.8G(3): No portion of a detached sign, pole or other supporting structure shall be located within one hundred (100) feet of any property zoned residential or the residential portion of a planned development. This Paragraph shall not apply to interstate highway right-of-way zoned residential.

4.9.8G(4): Computation of billboard area

This paragraph contains the maximum size of billboards. However, a cross reference is needed to Paragraph 4.9.6A(3), which states that the size of signs is regulated based on the number of square feet seen from one point within the public right-of-way. However, since many billboards are splayed in a "V" formation so they are angled towards the highways, the following caveat is proposed:

4.9.8G(4): The maximum gross surface area of a sign is as follows: Along all U.S. Interstate Highways in Memphis and Shelby County: six hundred seventy-two (672) square feet. Sign faces may be splayed in a "V" formation at a maximum of 45 degrees for the purposes of adhering to the computation of gross surface area under Paragraph 4.9.6A(3). Sign faces may not be splayed in an "X" formation.



Example of a sign at Sam Cooper and Highland with a splay of 90 degrees, which allows both signs to be read at the same time.

4.9.15F(2)(c): Section change

This section of the Code uses the term "subdivision," which is not a term used in section nomenclature under Chapter 1.12. Since it refers to other Items within its paragraph, the following change is recommended:

4.9.15F(2)(c): Any period of such discontinuance caused by government actions, strikes or acts of God, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for the purposes of this **paragraph** subdivision.

48. 6.1.2B(3)(c)(3): Tree ordinance

This section of the Code states that side and rear screening requirements may be waived if an equivalent or alternative tree placement is approved through the tree permit process. The problem is that this section is placed in the tree survey waiver section of the tree ordinance and not the section entitled "approval of equivalent alternative." This proposal would move what is currently Sub-Item 6.1.2B(3)(c)(3) to a new Sub-Item 6.1.2B(3)(a)(3):

In cases where <u>an</u> the equivalent alternative is <u>approved</u> used pursuant to paragraph a above, the <u>Zoning Administrator</u> Planning Director (details on this amendment are described above) may also waive the side and rear yard screening requirements set forth in the landscape enhancement plates upon a finding that the implementation of such plates is impractical or unnecessary, based on the existing use of the adjacent property.

49. 6.1.3B(2): Missing commas

...shall consult with the Shelby County Environmental Improvement Committee and/or the Memphis City Beautiful Commission, whichever is appropriate, prior to approval of any distribution of tree bank funds.

50. 7.1F(1)(c): More specific cross-reference

All other development that meets the provisions of <u>Sub-</u>Section 7.2.9 $\underline{\mathbf{A}}$ in the SCBID Special Purpose District.

51. 7.2.3D: Uses permitted in the R-SD district

This section of the Code lays out additional uses that are permitted in the R-SD (South Downtown Residential) zoning district in the South Main area by linking to the CMU-1 commercial mixed use district. The proposed language will clarify that only those uses permitted by right in the CMU-1 zoning district would be permitted by Special Exception in the R-SD zoning district; this will avoid the interpretation that a use that would require a Special Use Permit (which requires two public hearings, one before the Land Use Control Board and one before the Memphis City Council) in the CMU-1 district would only require a Special Exception (which only requires a hearing before the Land Use Control Board) in the R-SD district:

Uses <u>permitted by right</u> in accordance with the Commercial Mixed Use-1 (CMU-1) District shall be permitted throughout the remainder of the R-SD District subject to approval of a Special Exception (see Section 7.2.10) by the Land Use Control Board (LUCB) and the following criteria...

52. 7.3.11: Incorrect reference in Uptown use table

The Uptown Special Purpose District originally anticipated a zoning district that was never implemented either in the text of the amendment (OPD Case No. ZTA 01-004) or on the map (Case No. Z 01-125), the Uptown Waterfront zoning district. While most references to this

zoning district were removed from the text prior to final adoption by the Memphis City Council: one remains as a footnote and associated with two land uses in Section 7.3.11. This proposal will eliminate these references:

Restaurant or Carry-Out Restaurant		X 15	P4	Х
Marina Degraptional Craft	X 15	X 15		
Marina-Recreational Craft	+5	 10		

X = Use permitted by right; S = Use requiring legislative site plan review and approval subject to the issuance of a special use permit; P4 = Such use shall be part of hospital and designed and intended primarily to serve patients or employees; 15 = Use permitted by right in the Uptown Waterfront Overlay District; C=Use permitted by issuance of conditional use permit.

53. 7.3.11, 8.2.2D and 8.3.11: Planned developments in Uptown and the Medical and University Districts

This proposed amendment has been removed from consideration.

54. 8.2.7C: Missing words

The following minimum streetscape standards apply along a Commercial Frontage as designated in Sub-Section 8.2.5B (see Sub-Section 8.2.5C for related building envelope standards). Developments with no on-site parking between the building **and the** street may follow the requirements for Urban Frontage (see B).

55. 8.2.8E(1) and 8.3.10E(3): Pervious parking in the Medical and University Overlays

These two sections contain similar language in the Medical and University Overlays: that any parking over the minimum required spaces provided for a particular use be paved with a pervious material such as grasscrete or gravel, as opposed to the typical asphalt or concrete impervious surface. The purpose of this provision is presumably to discourage superfluous parking in parts of town where density is encouraged. According to a local engineer Michael Rogers, PE. Director of Land Development with Fisher Arnold, during his review of this matter associated with the construction of the Memphis Fire Department's new station at Washington and High in the Medical District Overlay, the typical sub-surface soil in that and the University Overlays are silt, clays and silty clays with low permeability and are therefore not conducive for achieving the implied benefits of pervious pavement. In addition, much of the Medical Overlay is near the old Gayoso Bayou culvert, which overflows during wet periods, especially when the Mississippi River is at high elevations. This makes the slow-percolation process inherent with pervious surfacing impractical since the ground in the area is soaked with groundwater due to the high water table. Finally, a portion of the Medical Overlay is also within the CBD zoning district, which contains no parking minimums. Taken together with Paragraph 8.2.8E(1) requiring all parking spaces over the minimum to be pervious, has been interpreted to mean that every parking space in the CBD zoning district within the Medical Overlay be pervious, an issue that would have had significant construction costs with the new fire station at Washington and High. The language below addresses this:

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8.2.8E(1): Due to the high availability of public transportation in the Medical Overlay District area, any building, structure, or use may reduce the total number of required parking spaces specified in Chapter 4.5, Parking and Loading by up to 25 percent. Where off-street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.

8.3.10E(3): Where off street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.

56. 8.3.6D: Building height in the University District Overlay

The table in this section says that buildings along shopfront-designated streets may be 55 feet in height; however, it also contains a footnote to cross-reference the height map in Sec. 8.3.7, which contains a wide variety of allowable heights throughout the Overlay, ranging from 35 to 80 feet. Since the other frontage, urban-designated streets, contain no specified height limit and instead references the height map in Sec. 8.3.7, the same is proposed for shopfront-designated streets:

***55

Also, there are contradictions between this table and the graphics that follow, such as upper floor height and lot of widths. This proposal will also square the table and graphics of this Sub-Section.

57. 8.3.9: Streetscape standards in the University Overlay

This section contradicts Section 4.3.3, which allows two additional streetscape types along Shopfront frontages. This amendment will address this contradiction:

Streetscapes S-1, & S-2, S-3 & S-4 apply along Shopfront Frontages.

58. 8.3.10E(2): Misspelling

...Where fractional spaces result, the parking spaces required shall be construed to be the **next** nest highest whole number.

59. 8.4.8K(3) and 9.24.11 (new section): Variances and similar applications

The Code generally discourages the need for a property owner to file two separate applications to sometimes two separate bodies for relief on a single project. The Planned Development is an example, which has the ability to grant bulk variances, use variances and

even create lots of record. However, the language of the sections cited below can and have been interpreted to require such separate applications. Specifically, a project may need a Conditional Use Permit from the Board of Adjustment to allow a home built out of a shipping container (known as a "Container Home") but a separate variance from the same board to allow that home to encroach into its required side yard setback. This proposal will address that scenario by allowing the Container Home to be approved as a variance or Planned Development, forgoing the need to file for a Conditional Use Permit (included below as a new Section 9.24.11).

9.24.11 (new section): Conditional Use Permits and Variances

If a Conditional Use Permit also requires the issuance of a variance, the approval of a variance (see Chapter 9.22) or Planned Development (see Chapter 4.10) will forgo the need for the separate filing or approval of a Conditional Use Permit, provided the required findings for those application types are met.

The proposal has been revised during its 90-day public review period to remove not only remove proposed language with regard to all Special Exceptions (proposed for Sub-Section 9.22.10B), but also those Special Exceptions in the Midtown Overlay (proposed for Sub-Sections 8.4.5D and 8.4.6B). Nevertheless, Paragraph 8.4.8K(3) within the Midtown Overlay requires a revision:

8.4.8K(3): Active ground floor use shall be required along public street frontages of parking garages. <u>A Permitted</u>—Special Exception to this requirement may be <u>filed</u>—found—in <u>accordance with</u> Section 8.4.6.

60. 8.4.8C(1)(b): Comma splice

Any development or portion of a development, adjacent to a designated frontage on the Zoning Map shall comply with the standards established for the designated frontage type.

61. 8.4.8D and J: General frontage in the Midtown District Overlay

"General" frontage is not applied within the Midtown District Overlay; its name and inclusion in the overlay provisions created confusion as some interpret it to mean undesignated frontage. This proposal calls on the deletion of references of the General frontage in Sub-Sections 8.4.8D and J; if any future frontages in Midtown are designated to the equivalent of General frontage, that could be done through Section 3.10.3.

62. 8.5.2A and 8.5.2B: Repetitive sections:

A. All land fronting a designated Residential Corridor, for a depth of 200 feet, shall not be eligible for rezoning to a nonresidential district nor shall such land be eligible for a change in use from a residential use to a nonresidential use. Certain civic and institutional uses may be permitted through the special use process (see 9.6).

B. All land fronting the designated Residential Corridor, for a depth of 200 feet, shall not be eligible for rezoning to a mixed use or nonresidential district **nor** or shall such land be eligible for a change in use from a residential use to a nonresidential use. Certain civic and institutional uses may be permitted through the special use process (see 9.6).

63. 9.2.2: TRC review of ROW vacations

With ZTA 17-01, 9.1.8B was amended to allow the Planning Director (to be renamed the Zoning Administrator in 2020) discretion on which right-of-way vacations should be heard by the Technical Review Committee (the "TRC") since many are not technical in nature and involve paper streets. However, this change was not reflected in the Review Table of Sec. 9.2.2. This proposal will change the symbol for mandated review by the TRC, "R," in this table to the symbol for review at the discretion of the Planning Director, " Δ ."

64. 9.3.2D and 9.3.2E: Neighborhood meetings

Sub-Section 9.3.2D mandates that any Community Impact Statement written by a neighborhood association shall be submitted to staff within five days of the Land Use Control Board meeting. Since the Board meets on Thursdays, this would allow a Community Impact Statement to be submitted on Saturday, which is after the staff reports are completed. It is recommended that a Community Impact Statement be submitted to the Board at any time before the meeting, included immediately before the meeting, which gives the neighborhood association more time to complete the report but also will prevent it from being incorporated into the staff report (which does not contain a Land Use Control Board recommendation since it is the report presented to the Board):

9.3.2D:...Neighborhood or business associations who intend to file a CIS must submit said statement to the Land Use Control Board or governing bodies no later than 5 days prior to the scheduled hearing date. If provided prior to the publishing of the Land Use Control Board staff report, the CIS shall be included within the staff report in a prominent position alongside the Land Use Control Board and Division Office of Planning and Development recommendations. If provided after the publishing of the Land Use Control Board staff report, the CIS will be referenced during the Land Use Control Board public hearing and contained in the materials that are forwarded to the legislative body, where applicable.

Finally, a new section is proposed that will recognize two exigent circumstances that may apply to neighborhood meetings: pandemics that make in-person meetings impractical and situations in which consistency with a plan is unknown until the Division of Planning and Development publishes its staff report. For the former, language is added that will allow for telephonic or electronic means. The latter may become an issue because neighborhood meetings are only required for rezonings that are not in compliance with an approved neighborhood plan or Memphis 3.0 and such compliance is unknown until the staff report is published. By the time the staff report is published, the applicant cannot meet the notice requirements to hold the neighborhood meeting before the Land Use Control Board conducts its hearing on the matter. This issue is addressed by allowing a neighborhood meeting to occur after the Land Use Control Board meeting but before the Memphis City Council or

Shelby County Board of Commissioners votes on the matter.

9.3.2E: (new section) Exigent circumstances. A neighborhood meeting may be conducted through electronic or telephonic means if holding an in-person meeting is impractical due to an ongoing public health crisis or other similar situation that is out of the control of the applicant, provided all notice requirements of this section are met. In addition, a neighborhood meeting may be held after the Land Use Control Board votes on the matter but before the governing body does so in the event the Division of Planning and Development makes a determination that a zoning change is not in compliance with a Chapter 1.9 plan with the publishing of its Land Use Control Board staff report (see Paragraph 9.3.2A(1)). In such an event, all notice and timing requirements of this Section shall still apply, but will be timed in conjunction with date the governing body is expected to vote on the matter.

65. 9.3.4A: Public notice

In practice, notice is mailed to adjacent property owners for minor subdivisions to alert them of the hearing before the Technical Review Committee; however, the Public Hearing and Notification Table in Sub-Section 9.3.4A only requires mailed notice when a minor subdivision is appealed to the Land Use Control Board. This proposal would change this table to require mailed notice for Technical Review Committee meetings as is currently done. This involves changing the "M-AO" for "Minor Preliminary Plans" under the "Mailed" column to "M."

Also, the Landmarks Commission Bylaws (Section III(C)) state that a 150-foot radius is used for Major Certificates of Appropriateness; this proposal will also amend this table to reflect that practice with the insertion of a new Footnote 7. Sub-Section 9.3.4A will also be amended to read <u>Major</u> Certificates of Appropriateness require notification.

Finally, the Notification Table currently requires newspaper notice for all Landmarks Commission Certificates of Appropriateness and Planned Developments and Special Use Permits where notice is requested on the latter two. This proposal would delete required newspaper notice for these items, which will result in newspaper notice purely for ordinance changes (text and map amendments). This will be in line with the Tennessee Code Annotated sections (TCA Secs. 13-7-401, et. seq.) that govern the Landmarks Commission's noticing requirements.

66. 9.6.11D(3)(c) and 9.6.11E(1): Amendments to approved Planned Development outline plans

The following language will address an internal issue for personnel at Planning and Development and closing attorneys alike: whether an entire Planned Development is amended if just one section if being amended. Some Planned Developments, such as Southwind, have dozens of phases and thousands of owners. To amend an entire Planned Development and give it a new case number when only one site is being amended proves cumbersome. The language below clearly outlines the process whereby a section of a Planned Development is amended.

9.6.11E(1): All outline and final plan amendments shall meet the standards set forth in Chapter 4.10, Planned Development. Outline plan amendments shall be given a new case number and apply only to the site subject to the amendment. Areas of the

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<u>original planned development not subject to the amendment shall retain the original case number.</u> The following modifications to approved outline and final plans shall be deemed amendments:

Also, Item 9.6.11D(3)(c) is missing a word:

9.6.11D(3)(c): 100 feet for final plans of eight acres but less than 20 acres; and

67. 9.6.15 and 9.6.13: Special Use Permit and Planned Development revocation process and bar to re-submit

Section 9.6.15 of the Code allows the Memphis City Council or Shelby County Board of Commissioners to initiate the process to revoke a Special Use Permit or Planned Development that had been approved by each respective body. Based on recent revocation actions and attempted actions, the following language should aid in this process:

9.6.15

- A. If any conditions of a special use permit, planned development or other requirements of this development code are violated, the governing bodies may revoke all or a portion of a special use permit or planned development.
- B. Revocation may occur after an evidentiary hearing is conducted by the governing bodies. The governing body may refer the matter to the Land Use Control Board for a recommendation on the revocation prior to its evidentiary hearing. All hearings associated with a revocation shall be open to the public with certified notice mailed to the owner of the property that is the subject of the special use permit or planned development. Mailed notice shall be in accordance with Paragraph 9.3.4D(1).
- C. A special use permit or planned development may be revoked upon a majority vote of the governing body approving the development.
- D. Violation of a condition of approval shall be considered a violation of this development code and thereby subject to the provisions of Article 11, Enforcement, as well as this section.

Similarly, Section 9.6.13 of the Code speaks to the amount of time that an applicant is barred from filing a similar Special Use Permit or Planned Development application on the same piece of property. Currently, this time limit is 18 months and does not include circumstances where the applicant files and application and receives a negative recommendation by the Land Use Control Board or those modifications and appeals where no action is required by the Code of the City Council or County Commission. The following proposal addresses all scenarios and extends the prohibition of filing a similar application from 18 months to five years. This is in response to at least two high-profile cases, one within the City of Memphis (a gas station) and one in unincorporated Shelby County (a gravel pit) where the same applicant made numerous requests for the same use within a relatively short time span.

Two specifics exception and a general exception will apply to this provision: specifically, this section will continue to allow that the governing body waive this period. This would be procedurally handled in the following manner: prior to filing with the Division of Planning and

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Development, the applicant would request that the governing body pass a resolution exempting him or her from this section in order to allow him or her to file the application. Also, this section of the Code spells out what is a "substantially similar" application, allowing the applicant to make changes without the 5-year period applying. If the Zoning Administrator finds that a particular application is substantially similar, the general exception to this provision may be invoked: appealing that finding to the Board of Adjustment. This would be procedurally handled in the following manner: prior to filing the Special Use Permit or Planned Development application with the Division of Planning and Development to be heard by the Land Use Control Board, the applicant would first file an appeal with the Division to be heard by the Board of Adjustment. Its focus would be solely on whether the Zoning Administrator erred in his or her determination that the new proposal was substantially similar to the old proposal. If the Board of Adjustment approved the appeal, the applicant would then file the Special Use Permit or Planned Development application.

9.6.13

- A. If the governing body votes to deny an application, there may be no subsequent similar application submitted by any party for any part of the subject property until 5 years 18 months have elapsed from the date of denial, or from the date any appeal thereof becomes final, whichever is later. This 5-year period shall also apply to: 1) those cases on which the Land Use Control Board conducts a vote but are withdrawn before the governing body may act and 2) those cases involving modifications (see Sub-Section 9.6.11E and Section 9.6.12) and appeals (see Sub-Section 9.23.1C) on which the Land Use Control Board conducts a vote and no further action by the governing body is taken. The governing bodies may waive the time-lapse requirements of this section where it is in the public interest to do so. For the purpose of this Sub-Section, "similar application" shall be interpreted to include, but is not limited to, the following:
 - 1. For those applications requesting a use not permitted in the underlying zoning district or permitted by issuance of a special use permit, a same or similar use, pursuant to the use categories provided in this Code.
 - 2. For those applications requesting bulk and/or lot size variations to this Code, a street layout that is substantially similar, or where the requested number of lots is substantially similar.

68. 9.8.6B: Sign posting for street and alley closure extensions

This section of the Code, which addresses extensions to street and alley closure petitions that have already been approved by the Memphis City Council or Shelby County Board of Commissioners, mentions a 300-foot mailing requirement, which conflicts with Section 9.3.4 requiring a 500-foot mailed notice. This proposal deletes the 300-foot language and stipulates that time extensions for street closures shall follow the same notice requirements as their original approval, based on Section 9.3.4.

Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification, based on the closure type (conversion, physical closure or abandonment). For conversions and physical closures, mailed notice shall also be delivered to all property owners within a three hundred (300) foot radius of the street or alley closing.

69. 9.11.2C: Misspelling

If streets have been improved, or partially improved, an application for right-of-way vacation in accordance with Chapter 9.8 shall also be **filed** filled.

70. 9.19.1: Misspelling

Certificates of occupancy are required to ensure insure...

71. 9.22.1B: Reference to subdivision waivers

This section of the Code stipulates that the Board of Adjustment may not grant variances related to subdivisions. The primary purpose is to prevent an applicant filing a variance with the Board of Adjustment from the subdivision regulations to create a subdivision without filing a plat with the Land Use Control Board. It is also meant to prevent a variance from being filed on matters such as road width, offset, etc. that are covered through the subdivision review process. However, this section is worded to imply that the Board cannot grant variances from those sections of the Code referenced in Sub-Section 9.7.7F (which is currently mistakenly listed as Sub-Section 9.7.73; a mistaken cross-reference that appears to have occurred with the Word document that holds the UDC during the adoption of ZTA 14-1). These include the Code's streetscape plates, which are often applied during site plan review and not through subdivision review. In other words, if a property owner is seeking alternate placement of street trees on a single property he or she may file a variance; going through the subdivision process would be inappropriate since the lot in question is already likely platted. The following amendment will clarify this:

9.22.1B: The Board of Adjustment shall have authority to vary the standards of this development code, except for those associated with <u>the creation of</u> subdivisions (see Sub-Section 9.7.7<u>F</u>3-for subdivision waivers).

72. 9.23.1A, 9.23.1C(1), 9.23.2A, 9.23.2E(1) and 9.2.2: Appeals

Any decision made by OPD and other departments interpreting provisions of the UDC are appealable to the Board of Adjustment, pursuant to the enabling acts passed by the Tennessee General Assembly that allows zoning in Memphis and Shelby County. However, for certain items, such as minor subdivisions and special use permit and planned development minor modifications, those appeals go to the Land Use Control Board pursuant to Section 9.2.2. The following language adds a reference to that section in Sub-Section 9.23.1A:

9.23.1A: An appeal by any person authorized by Section 9.2.2 to file an appeal and aggrieved by a final order, interpretation or decision of the **Zoning Administrator**

Planning Director (see Item 1 above with regards to this amendment), Building Official or other administrator in regard to the provisions of this development code may be taken to the Board of Adjustment. However, an appeal of a minor preliminary plan, as well as those other items articulated in Section 9.2.2, may only be taken to the Land Use Control Board.

Paragraph 9.23.1C(1) of the Code provides parties five days to file said appeal, with the clock starting once the receiving party receives notification of the decision in question. This appears to be worded specifically for the applicant or property owner requesting to appeal an adverse action by OPD, but not other aggrieved parties such as neighboring property owners. For instance, if an administrative site plan is approved by OPD, only the owner and his or her agents are notified. Most often, neighboring property owners learn of the approval more than five days after the site plan has been approved. This following language provides a balance between the rights of the subject site property owner, who needs closure as soon as possible, and those of abutting property owners who seek to protest an item that presumably meets all of the provisions of the Code. The following language provides a maximum 14-day window to appeal. It also eliminates any list of the types of cases that may be appealed to the Land Use Control Board since it excludes at least two (for instance, minor modifications to Special Use Permits and Planned Developments); the proposal below will replace this list with a reference to Section 9.2.2, which outlines all of the types of cases that are appealed to the Board of Adjustment and which ones are appealed to the Land Use Control Board.

9.23.1C(1): An appeal of an administrative decision shall be filed with the Secretary of the Board of Adjustment or, if <u>directed by Section 9.2.2</u> a special exception or minor preliminary plan, with the Secretary of the Land Use Control Board and with the aggrieved entity, within five days of receipt of the decision unless a different time frame is provided in one of the Chapters of this Article. For non-applicants and other property owners who would not receive notice of an administrative decision under the provisions of this Code, an appeal shall be filed within five days of their receipt of the decision but under no circumstance more than 14 days after the date of the decision.

Sub-Section 9.23.2A outlines who has the right to appeal a decision by the Land Use Control Board to the governing bodies. It currently excludes appeals of the Planning Director from the kinds of cases that may be appealed further to the City Council but does not include other exclusions provided for in Section 9.2.2, the appeal table. Similar to the proposal above, the list of items covered by this section will be replaced with a reference to Section 9.2.2:

9.23.2A: Right to Appeal. <u>Applicants and any other</u> individual appearing and providing vocal objection to, or submitting written comments on, a particular application at a meeting of the Land Use Control Board may appeal a decision of the Land Use Control Board, on said application, to the governing bodies, <u>provided the application type is outlined as appealable to the governing bodies in Section 9.2.2.</u> except where the Land Use Control Board hears an appeal of the Planning Director. Applicants may also appeal decisions made by Land Use Control Board to the governing bodies.

9.23.2E(1): Any matter that is heard by the Land Use Control Board that would not otherwise be forwarded to the Memphis City Council or Shelby County Board of Commissioners for final

consideration is appealable to these legislative bodies. Paragraph 9.23.2E(1) contains the mailed notice for the public hearing of such an appeal; it requires mailed notice to the applicant, appellant, all parties who spoke at the meeting and members of the Technical Review Committee. This proposal would eliminate members of the Technical Review Committee since these individuals are staff members of various City and County agencies who are not notified of any hearing of the City Council and County Commission but rather attend as a function of their job duties. It will also replace members who spoke on the matter with all parties who received public notice for the initial public hearing before the Land Use Control Board; this will result in many more people receiving mailed notice.

9.23.2E(1): The appeal shall be scheduled for legislative consideration. Notice shall be sent to the applicant, the appellant and all parties who received mailed notice for the Land Use Control Board meeting under Sub-Section 9.3.4A, any individual appearing or who submitted written comments at the Land Use Control Board meeting, and members of the Technical Review Committee, not less than ten days or more than 35 days in advance of the scheduled hearing.

Finally, Section 9.2.2 contains the parties that may appeal decisions of the Planning Director (as well as the Building Official and City and County Engineers): those property owners within 1000 feet of the subject property. This needs to also include the subject property owner, as a decision may be adverse to his or her interests:

9.2.2 (footnote A**): Only **the subject property owner and** those property owners within 1000 feet of the subject property, as measured from property line to property line, may appeal decisions of the Zoning Administrator Planning Director (this amendment is covered above), Building Official or City or County Engineer.

73. 10.5.1: Nonconforming lots and tracts

This proposed amendment has been removed from consideration.

74. 11.1: Injunctive relief

Article 11 provides for remedies to violating the provisions of the Code, including the ability of the Environmental Court to impose a \$50 fee for each day a violation exists. Chapters 11.3 and 11.4, which provide remedies specifically to violations to the tree and sign ordinances of the Code, also provide injunctive relief. In other words, a person found in violation of the tree and sign code may be ordered to stop work and cease some or all utilization of the subject property by the Environmental Court. Curiously, injunctive relief is not provided for violations for other sections of the Code. The language below addresses this:

11.1A: Any person, firm or corporation violating any of the provisions of this development code shall, upon conviction thereof, be fined not more than \$50.00. Each day's continuance of a violation shall be considered a separate offense. In addition to the party violating this development code, any other person who may have knowingly assisted in the commission of any such violation shall be guilty of a separate offense. The City and/or County may also seek an injunction or other order of restraint or abatement that requires the correction of the violation.

75. 12.3.1: Definitions of "Boarding House" and "Rooming House"

Boarding houses are defined as those dwellings that have more than four unrelated individuals residing together; rooming houses are defined as those dwellings with four or fewer individuals residing together for periods of less than 30 days. To aid in the citation of these uses in Environmental Court, the following language is proposed for both definitions, which provide quantifiable evidence of the existence of these uses:

BOARDING HOUSE: A building where lodging, with or without meals, is provided for compensation for five or more persons, who are not transients, by prearrangement for definite periods, provided that no convalescent or chronic care is provided. Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.

ROOMING HOUSE: A dwelling where lodging is provided for compensation for at least one, but not more than four, transients at one time, by prearrangement for a period of less than 30 days. Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.

76. 12.3.1 and 2.6.2G(3): Other definitions

Commercial parking is currently defined as any parking that serves as nonresidential use. However, there are some parking lots, such as church parking lots, that may be approved through the Conditional Use Permit process, conflicting with the regulation requiring commercial parking through the Special Use Permit process. This clarification to the definition of "commercial parking" below will correct this inconsistency:

COMMERCIAL PARKING: Any surface or structured parking that serves an off-site nonresidential use(s), except for those nonresidential use(s) permitted in residential districts such as places of worship and schools.

The change above will also necessitate a clarification to the cross-reference included in Paragraph 2.6.2G(3) with regards to off-site parking for places of worship if the parking is within 300 feet of the place of worship: this needs to be to Item 4.5.2C(2)(e) and not specifically to one of its sub-items, 4.5.2C(2)(e)(2).

Repetition:

DROP-IN CHILD CARE CENTER: DROP-IN CHILD CARE CENTER:

The very end of the definition of "Frontage" says that private drives may provide required frontage for lots if they are approved in subdivisions or planned developments by the Land Use Control Board. Since the City Council or County Board of Commissioners actually approve planned developments, the following language is proposed:

FRONTAGE:...Access via private access easements across adjacent properties to a public street shall not constitute frontage except for subdivisions and planned developments with private drives as approved by the Land Use Control Board <u>or governing body</u>.

Also, the definitions of "Group Shelter," "Nursing Home," "Residential Home for the Elderly" and "Transitional Home" state that the Planning Director (hereafter known as the Zoning Administrator) may approve supportive living facilities or personal care homes that are not licensed. The practice of the Office of Planning and Development (hereafter known as the Office of Zoning Administration) is to discourage any "by right" homes of this kind that are not license, much less approve them. The following amendments will codify this practice:

GROUP SHELTER: A residence, operated by a public or private agency, which may provide a program of services in addition to room and board to persons on a voluntary basis under continuous protective supervision. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

NURSING HOME: An establishment which provides full time convalescent or chronic care, or both, for five or more individuals who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, and unable to care for themselves and required skilled medical staff. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

RESIDENTIAL HOME FOR THE ELDERLY: A building where at least two ambulatory persons, of at least 55 years of age, reside and are provided with food and custodial care for compensation, but not including nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

TRANSITIONAL HOME: A residence used for the purposes of rehabilitating persons from correctional facilities, mental institutions, and alcoholic and drug treatment centers and operated by a public or private agency duly authorized and licensed by the state, which agency houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in a community and which provides continuous professional guidance. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized

governmental agency or in other instances, approved by the director of the Memphis and Shelby County Office of Planning and Development (who shall provide any such applicant with written notice of his or her determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

PUBLIC COMMENTS, ORDERED CHRONOLOGICALLY AS THEY WERE REC'D

(responses from the Division of Planning and Development provided in yellow)



Thursday October 1, 2020

An Open Letter to City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff.

We are writing to express concerns about the proposed amendments to the Unified Development Code (UDC) listed in the staff report for ZTA 20-1 and to request revisions in the proposed amendments. Our concerns are in reference to:

- 1. Section 1.9 Consistency with Memphis 3.0,
- Section 8.4.5D and 9.22.10B to send deviations from the UDC to the Board of Adjustment rather than to the Land Use Control Board.
- 3. Section 10.5.1 Amendment to change the meaning of the nonconforming lots regulations,
- 4. Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys,
- 5. Sections 2.6.4D and 6.5.1 deferring to TDEC regulations.

We believe it is very important to preserve the rights of citizens and neighborhoods affected by land use applications to participate effectively in the determination of consistency with the Memphis 3.0 general plan. In the recent case of the Connections Center Special Use Permit 20-01 proposed for Jackson Ave. Office of Planning and Development staff determined that the Center application was consistent with 3.0. However, a coalition of neighborhood groups and citizens did not agree the use was consistent and felt strongly that it would be harmful to the continued improvement in their neighborhoods. We request to add the following language to UDC section 1.98 to make it clear that citizens and neighborhoods who disagree may effectively challenge the interpretation of consistency as the item is considered by boards and bodies responsible for making land use decisions.

Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.

We are opposed to the changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA)instead of the Land use Control Board (LUCB). We request the removal of these amendments to the UDC regulations. There are substantial differences in public notice and the length of time available for citizen participation in the BOA process as compared to the LUCB process which we believe significantly diminish the rights of citizens and neighborhoods to participate in the land use approval process. A very important difference is that the LUCB is a longer, two-step process which allows an appeal to the Memphis City Council. The BOA process is a significantly shorter, one step process which allows no appeal except to go to court which is out of reach for most citizens and neighborhoods.

The OPD staff report proposes to make this change in process to reduce the situations in which a property owner must go to the LUCB (Special Exception) and the BOA (Variance) for relief from the regulations. However, evidence in the annual reports to LUCB show that there are very few applications for Special Exceptions; 2020 - I (maybe 2), 2019 - I, 2018 - 0 and 2017 - I. With so few Special Exception cases, there is no reason for this change which makes it hard for citizens to have a voice in the land use approval process. No appeal to the City Council means that all developers will choose the BOA process if the process is written as a choice as proposed in this ZTA staff report.



We are opposed to the proposed amendments to UDC Section 10.5.1, which change the meaning of the nonconforming lots regulations. According to the OPD staff report, the reason for this change to regulation of nonconforming lots is that this has always been the intent of the regulations. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

At first glance this change may appear to support infill development and density that will improve the city by making housing more affordable. However, its actual effect has been to promote demolition of affordable existing homes which have been replaced by very expensive "tall skinny" homes on 25-foot lots. These homes have contributed to changing the Cooper Young neighborhood from a mixed income neighborhood to one that is too expensive for citizens with low and moderate income. We ask that this proposed change to the nonconforming lots regulations be removed from the list of proposed changes to the UDC in ZTA 20-1. This proposed change in the nonconforming lots regulations will legalize the practice of purchasing a 50-foot lot, demolishing the original home and building "tall skinny" homes on 25-foot-wide lots.

We are opposed to the changes to UDC Section 9.8.68, amending the requirements for notice regarding the closure of alleys. The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Simply posting a sign three years after a permit was issued to allow an extension is not sufficient notice for the affected property owners, regardless if the same owners agreed to the previous closure permit.

We believe that the closure of landfills should be reviewed by local government. While TDEC approved reclamation plans may be sufficient, there may be cases in which local requirements may be more demanding. There is no reason for local government to give up this authority: regarding landfills. We oppose the changes proposed under Sections 2.6.4D and 6.5.1 and request that the language remain as is.

We are joined in sending this letter with our partners in working for a better Memphis who also hope that our suggestions are included in the final adopted version of the amendments to the Unified Development Code. The full list of partners is included in the signature line of this letter. Our specific areas of concern, additions, and suggestions are listed on the next page.

Sincerely,

Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.



Respectfully Submitted,



Sections of ZTA 20-01 with our suggested changes

The numbering scheme below reflects the numbered items in the OPD staff report

- 4. 1.9 Consistency with Memphis 3.0 and references to the Major Road Plan, **Add bolded** and underlined text
- 1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED
- A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.
- B. Determination of Consistency. When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. **Boards and bodies** responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.
- C. Memphis 3.0 and this Code the Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.
- D. The following plans shall be considered in any decisions under this development code...

DPD Response: Agreed; see revised language in the staff report above.

- 12. 2.6.4D and 6.5.1: TDEC's involvement with landfills and gravel mining, **Keep current** version
- 6.5.1D: All excavations shall be filled and the land restored, re-graded and re-sloped as nearly as practicable to its original condition, and grade within 90 days after the date sand, gravel or other extraction operations cease...
- 6.5.1E: Land shall be restored, re-graded and re-sloped as nearly as practicable to its original condition and grade provided, however, that after such reclamation activities, no slope on such land shall be steeper than three feet horizontal to one foot vertical and no greater quantities of drainage water shall flow onto adjoining properties or shall flow at a faster rate onto adjoining properties than such drainage water flowed prior to the commencement of sand, gravel or other extraction or processing activities on the land reclaimed

DPD Response: Agreed, but the revised proposal above does include the allowance for a TDEC reclamation plan to satisfy the UDC requirement for a final reclamation plan. In many instances, TDEC will allow a former gravel pit to be filled with water to become a lake.

59. 8.4.5D, 9.22.10B and 9.22.10C (new section): Variances and similar applications; **Keep current version**

8.4.5D: Unlisted and Listed Standards: Any request for a deviation from a standard of the Unified Development Code not included in the Midtown District Overlay shall be reviewed by the Board of Adjustment in accordance with Chapter 9.22, Variances. Any request for a deviation from a standard included in the Midtown Overlay District not listed as an Administrative Deviation shall be reviewed by the Land Use Control Board as a Special Exception, in accordance with Section 8.4.6, below

9.22.10 (section heading) Pending Applications

9.22.10B: If a variance application also requires the approval of a special exception (see Chapter 9.14), the Board of Adjustment may consider the special exception as a variance request. Under such a circumstance where the request involves additional height, the Board of Adjustment may only grant the request for additional height if it makes a finding that the subject site exhibits extraordinary topographic conditions.

9.22.10C **Do not add**

DPD Response: Agreed, in part. The revised language would eliminate the proposal to allow any matter that is approval by Special Exception to also be approved by variance (this amendment was proposed for Sub-Section 9.22.10B). However, it retains the proposal to allow a matter approvable by Conditional Use Permit to be approved as a variance since both matters are heard by the same body, the Board of Adjustment, and would eliminate the need to apply for two separate applications before the same body at the same meeting. This amendment is found within a new Section 9.24.11, which also allows the Conditional Use Permit and variance to be merged as a Planned Development.

As for the proposed amendment to the Midtown Overlay (listed above as a change to Sub-Section 8.4.5D), it has been altered to match the Special Exception language of the Medical and University District Overlays (specifically, Paragraphs 8.2.3C(2) and 8.3.4C(2), respectively). Currently, the Code allows exceptions to any listed standard within the Midtown Overlay as a Special Exception but to any unlisted standard as a variance. The issue is not the infrequency of the number of Special Exceptions in Midtown in the past, but the likelihood that some waivers that should have been processed as Special Exceptions under the current language of UDC Sec. 8.4.5D were in fact processed as variances since so many regulations of the Midtown Overlay are repetitive of regulations found in other parts of the Code. This is largely due to the fact that the Midtown Overlay predated the UDC by a few months and purposely included language proposed for the UDC, but not the predecessor zoning code, as a "bridge" between the

Overlay's and the UDC's separate adoptions. The revised proposal will maintain the allowance for Special Exceptions in the Midtown Overlay, but focus them on the <u>specific</u>, <u>articulated</u> issues, the same issues that are processed as Special Exceptions in the Medical and University District Overlays (building height and parking), as well as one additional issue that is currently found in the Midtown Overlay as a Special Exception (active ground floor space in parking garages).

68. 9.8.6B: Sign posting for street and alley closure extensions, **Keep current version**Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification. For conversions and physical closures, mailed notice shall also be delivered to all property owners within a five three hundred (500) (300) foot radius of the street or alley closing

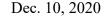
DPD Response: Agreed. The primary purpose of this proposal was to eliminate the conflict between this section, which requires a 300-foot notice, and the Notice Table (Section 9.3.4), which requires a 500-foot notice, in favor of the greater notice. The original proposal of this item would have both corrected this and only required those street closures that have expired to go through the original notice requirements. The revised language will now require all street closure extensions – be they expired or not – to provide the same notice as the original approval.

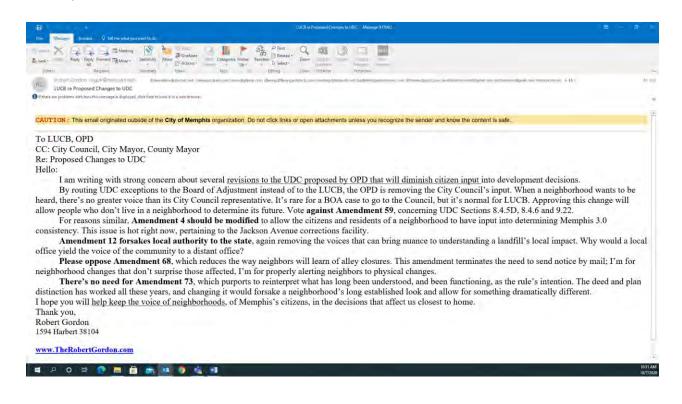
73. 10.5.1 Nonconforming lots and tracts; **Keep current version**

10.5.1: In any district in which single-family detached dwellings are a permitted use, not withstanding the regulations imposed by any other provisions of this development code, a single-family detached dwelling which complies with the restrictions of Section 10.5.2 below may be erected on a nonconforming lot that is not less than 25 feet in width, and which:

- A. Has less than the prescribed minimum tract or lot area, width and depth, or any of them; and
- B. Is shown by a recorded plan or deed to have been a lot of record or tract owned separately and individually from adjoining tracts of land at a time when the creation of a lot or tract of such size, depth and width at such location would not have been prohibited by any zoning or other ordinance; and
- C. Has remained in separate and individual ownership from adjoining tracts of land continuously since March 1, 1989.

DPD Response: Agreed; clarity has been provided above. See revised discussion and proposed language for this Item above in the body of the staff report.





PO BOX 9695 MEMPHIS, TN 38190-0695 (901) 300-0250

November 3, 2020

Mr. Josh Whitehead Zoning Administrator Division of Planning and Development 125 N Main Street, Suite 468 Memphis, TN 38103-2030

RE: Zoning Text Amendment (ZTA) 20-1

Name: Dr. Yvonne D. Nelson

Home Address: 3519 McCorkle Road, Memphis, TN 38116-3923

Organization: McCorkle Road Neighborhood Development Association, Inc. of Memphis dba

Whitehaven Community Development Corporation

Subject: Objections to portions of the Amendments to the M&SC Unified Development Code

Dear Mr. Whitehead

As spokesperson for the MRNDA dba the Whitehaven CDC, I am speaking to you from the perspective of the areas concerned citizens, who collectively wishes to address the Division of Planning and Development regarding several changes to the existing Unified Development Code. First and foremost, we applaud your decision to make many of these changes, including Item #s 8, 17, and 34. At this time, we will reserve our opinions for and/or against the Memphis 3.0 Plan.

Section 64. 9.3.2B and D, "Neighborhood Meetings" are of grave concern.

Neighborhood meetings must remain mandatory for all zoning requests. Furthermore, a better effort should be required to ensure that all active neighborhood associations are listed and on file at the Memphis Office of Community Affairs as well as on file with the Division of Planning and Development.

While many organizations may actually be registered, they are not always receiving zoning change requests. For example, the McCorkle Road Neighborhood Development Association, Inc. of Memphis was founded in 1994 and has been a very active association in ZIP Code 38116, the Whitehaven community, since its inception. The members long ago decided to direct all of the organization's mail to a post office box. A postal facility a mere 2.0 miles away was selected; however, post office box ZIP Codes do not match residential area ZIP Codes and thereby creates a problem if you are looking for a match when one does not and will never exist.

Therefore, the suggested language for 9.3.2B(1) and 9.3.2D should not rely on an associations "official mailing address," in determining whether a zoning issue is or is not in the same ZIP Code(s) as the property subject to the rezoning action.

Whitehaven CDC

Page | 2

Section 65. 9.3.4A "Public Notice" is again of grave concern.

Residents of all districts have the right to be notified, far in advance, when zoning or other changes are being made or contemplating to be made in their communities. The size of the subdivision should not play a role in who is notified, when, and/or why. Furthermore, the boundaries should be defined by each association and in cases where the association does not provide boundaries, then, at a minimum, properties within a 1.5-2.0 mile radius should be automatically notified since no organized association may already exist.

The current notification system is faulty. Notifications should include area leaders on (or off) file and both property owners and current renters, within a 1.5-2.0 mile radius of the zoning issue. All of these individuals should be notified in advance of all changes being proposed. The current "500' diameter radius or 25 homes, whichever comes first," resulted in less than one-third of the homes directly affected being notified in a recently won case. The burden of notifying the entire community affected should lie with the developer, not the community's organized (or unorganized) neighbors themselves.

Furthermore, (1) all street/corner hustling should be ceased. Vendors should be regularly checked for valid licenses to sell products from street corners, especially during holiday seasons and (2) all signs illegally placed on empty lots, light poles, and/or corners to advertise any company should be immediately removed and the business owner should be fined a reasonable amount, per sign, until they stop littering our streets with unsightly "We Buy Houses" and related propaganda. They should be referred to the section on "Billboards" and be required to abide by those laws.

Thank you in advance for considering these additional items in your zoning text amendments. We shall look forward to receiving a favorable outcome from each of these requests.

Regards,

Dr/ Yvonne D. Nelson

Drecident

McCorkle Road Neighborhood Development Association, Inc. of Memphis dba

Whitehaven Community Development Corporation

Post Office Box 9695

Memphis, TN 38190-0695

DPD Response: On Item 64, agreed. This proposal has been removed from this set of amendments. On Item 65, the proposed amendment will provide <u>more</u> mailed notice than what is currently provided, not less. Furthermore, it does not propose any changes to the notification radii provided in the Code. Many of the concerns raised in this letter are addressed by the

extraordinary notice that the Division engages in with all applications filed. For the past several years, the Division will email all neighborhood leaders of all applications within 24-48 hours of the application deadline. In the past few months, this has been reduced to about 12 hours, giving these neighborhood leaders about a month to review the case – the same time that is allotted to the staff planner assigned to the case. At the same time this notice is made, the Division will post the same notice on Nextdoor.com. As of the writing of this staff report, more than 130,000 households follow DPD on Nextdoor, meaning <u>nearly 40% of all households affected by Board of Adjustment and Land Use Control Board decisions are notified of those decisions about a month in advance.</u> The author of this report knows of no other jurisdiction that provides this level of advanced notice for land use cases that reaches such a substantial percentage of its citizenry.



Hello Friends.

As you might know, the Office of Planning and Development is proposing several changes to the Unified Development Code. We feel that many of these proposed changes are not in the best interest of our historic neighborhoods (and all of our neighborhoods). Please see the links below my signature for more information.

The Land Use Control Board will hear the proposed changes at their meeting on November 12 at 9:30am Comments are due to Josh Whitehead at josh.whitehead@memphistn.gov this Friday at 8am.

Quincy Jones with Neighborhood Preservation, Inc. is leading a Zoom call tomorrow, Wednesday 11/4, at 11am to discuss the amendments. I apologize for the late notice. Here is the link to the meeting:

Join Zoom Meeting

https://us02web.zoom.us/j/88551193968?pwd=VEZBREpZbUh5cTd1bGZVd1l5MHpj/Zz09

Meeting ID: 885 5119 3968

Passcode: 768119

We will send out an update after the call. We hope that you will consider writing a letter to voice your concerns. Please be in touch with any questions.



Whitehead, Josh

From: Emily Graves <emilytgraves@gmail.com>
Sent: Thursday, November 5, 2020 11:21 AM

To: Whitehead, Josh

Subject: Staff Report ZTA 20-1: Concerns re: UDC amendments, request for revisions

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Whitehead,

I am writing to express concerns about the proposed amendments to the Unified Development Code (UDC) listed in the staff report for ZTA 20-1 and to request revisions in the proposed amendments, specifically in reference to:

- 1. Section 1.9 Consistency with Memphis 3.0,
- 2. Section 8.4.5D and 9.22.10B to send deviations from the UDC to the Board of Adjustment rather than to the Land Use Control Board,
- 3. Section 10.5.1 Amendment to change the meaning of the nonconforming lots regulations,
- 4. Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys,
- 5. Sections 2.6.4D and 6.5.1 deferring to TDEC regulations.

I will not re-write the correspondence you received from Neighborhood Preservation, Inc., dated October 1, 2020 -- I support all of their revisions and their associated reasoning. I am happy to re-send their letter if needed.

Let's make Memphis better for everyone and protect the fabric and character of our neighborhoods.

Regards,

Emily Graves, MD, FACS Founder, Physicians for Urban Parks, Inc. 1412 Carr Ave Memphis, TN 38104 (901) 258-4613

Whitehead, Josh

From: Patrick McCabe <plmccabe@live.com>
Sent: Thursday, November 5, 2020 12:54 PM

To: Whitehead, Josh

Subject: Proposed Changes to the UDC

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Whitehead:

I am writing to support the effort against the currently proposals to change the UDC.

In short

I believe it is very important to preserve the rights of citizens and neighborhoods affected by land use applications to participate effectively in the determination of consistency with the Memphis 3.0 general plan.

In the recent case of the Connections Center Special Use Permit 20-01 proposed for Jackson Ave, Office of Planning and Development staff determined that the Center application was consistent with 3.0. However, a coalition of neighborhood groups and citizens did not agree the use was consistent and felt strongly that it would be harmful to the continued improvement in their neighborhoods.

I request to add the following language to UDC section 1.9B to make it clear that citizens and neighborhoods who disagree may effectively challenge the interpretation of consistency as the item is considered by boards and bodies responsible for making land use decisions. Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.

I am opposed to the changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA)instead of the Land use Control Board (LUCB). We request the removal of these amendments to the UDC regulations. There are substantial differences in public notice and the length of time available for citizen participation in the BOA process as compared to the LUCB process which we believe significantly diminish the rights of citizens and neighborhoods to participate in the land use approval process. A very important difference is that the LUCB is a longer, two-step process which allows an appeal to the Memphis City Council. The BOA process is a significantly shorter, one step process which allows no appeal except to go to court which is out of reach for most citizens and neighborhoods.

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1

few Special Exception cases, there is no reason for this change which makes it hard for citizens to have a voice in the land use approval process. No appeal to the City Council means that all developers will choose the BOA process if the process is written as a choice as proposed in this ZTA staff report.

I am opposed to the proposed amendments to UDC Section 10.5.1, which change the meaning of the nonconforming lots regulations. According to the OPD staff report, the reason for this change to regulation of nonconforming lots is that this has always been the intent of the regulations. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

At first glance this change may appear to support infill development and density that will improve the city by making housing more affordable. However, its actual effect has been to promote demolition of affordable existing homes which have been replaced by very expensive "tall skinny" homes on 25-foot lots. These homes have contributed to changing the Cooper Young neighborhood from a mixed income neighborhood to one that is too expensive for citizens with low and moderate income. We ask that this proposed change to the nonconforming lots regulations be removed from the list of proposed changes to the UDC in ZTA 20-1. This proposed change in the nonconforming lots regulations will legalize the practice of purchasing a 50-foot lot, demolishing the original home and building "tall skinny" homes on 25-foot-wide lots.

I am opposed to the changes to UDC Section 9.8.6B, amending the requirements for notice regarding the closure of alleys. The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Simply posting a sign three years after a permit was issued to allow an extension is not sufficient notice for the affected property owners, regardless if the same owners agreed to the previous closure permit.

I believe that the closure of landfills should be reviewed by local government. While TDEC approved reclamation plans may be sufficient, there may be cases in which local requirements may be more demanding. There is no reason for local government to give up this authority, regarding landfills. We oppose the changes proposed under Sections 2.6.4D and 6.5.1.

Sincerely,

Patrick L. McCabe 915 S Mclean



1600 Century Center Pkwy. Suite 104 Memphis, TN 38134 Call 901.396.1900 // Fax 901.332.2905

Josh Whitehead, Planning Director Memphis and Shelby County Office of Planning and Development City Hall, 125 Main Street Memphis, TN 38103

November 5, 2020

Re: L.U.C.B. case number ZTA 20-01

Dear Mr. Whitehead,

On behalf of Lamar Advertising of Memphis (Lamar), I am writing in response to the proposed UDC amendments pending under Land Use Control Board case number ZTA 20-01. As you are aware, Lamar is the dominant off-premise sign company in the greater Memphis area. We are extremely concerned with certain proposed changes which will have an adverse effect on our business and the entire industry.

Specifically, changes referenced in the staff report Executive Summary at item #47 claim that proposed changes for off-premise signs (Billboards) is an effort that "codifies current interpretations of the Code..." We respectfully disagree with this summary statement; in fact two (2) of the proposed changes adversely affecting our industry are entirely new interpretations of the Code.

The following description of these two (2) proposed UDC changes is in summary for purposes of conveying the objectionable issue and their removal from the proposed text:

UDC 4.9.8A(2): Location of new billboards-Staff proposed insert: Located within 300 feet of an-U.S. Interstate Highways 40, 55 and 240; and

Objectionable issue:

the current Code was developed in 2010 when the only Interstates in Memphis were 40, 55 and 240. The Outdoor Advertising industry mutually agreed with Memphis to limit development of new billboards to the Interstate systems. And since billboards are a "permitted" use under UDC 2.5, this attempt to constrain business growth through elimination of Interstate 69 and future Interstate 22 is contrary to past mutual agreements. At a time when the entire Memphis business community is struggling to support itself and tens of thousands of employees who benefit from the advertising industry's support of the economic engine for buying and selling goods and services, there should not be an unwarranted special interest in curtailing our industry's growth.

UDC 4.9.8E(1): Direction of billboards-

Staff proposed insert: <u>For purposes of this Sub-Section, sign faces positioned within the same 90-degree circular sector shall be considered to be facing the same direction.</u>

Objectionable issue:

the current Code <u>only</u> requires the measurement for "spacing" of signs as being along the "same side of the same road...", therefore, the inclusion of the proposed phrase <u>"within the same 90-degree circular sector"</u> may give rise to interpreting a "radial" measurement which would encompass <u>both sides of a road.</u> This is contrary to all historical practice, not only within Memphis Codes but within the entire State of Tennessee as is regulated by the Outdoor Advertising Control Act. We believe a further review of this language for clarification is warranted to prevent potential controversy within the context of established regulatory schemes.

In closing, for the reasons cited above we respectfully request that the Office of Planning and Development along with the Land Use Control Board act to remove of the proposed amendments to sections 4.9.8A(2) and 4.9.8E(1) and defer these matters to a later date and providing for input from the affected parties within the outdoor advertising industry. Please contact me at your convenience for additional discussion or input.

Sincerely,

Michelle R. Millard

Vice-President/General Manager

DPD Response: Agreed; these have been removed from the proposal. Please see revised language above.

Staff Report ZTA 20-1	Dec. 10, 2020
Whitehead, Jo	osh
From: Sent: To: Subject:	Brantley Ellzey <brantleyellzey@gmail.com> Thursday, November 5, 2020 3:49 PM Whitehead, Josh ZTA 20-01 - annual set of amendments to the Unified Development Code</brantleyellzey@gmail.com>
	email originated outside of the City of Memphis organization. Do not click links or open attachments unless you er and know the content is safe.
Dear Josh,	
citizens' ability to	e behest of Memphis Heritage to oppose any changes to the Uniform Building Code that take away voice their concerns and protect their historic neighborhoods. This attempted end run around the Board process is despicable.

Thank you,

Brantley

MARTIN, TATE, MORROW & MARSTON, P.C.

ATTORNEYS AND COUNSELORS

INTERNATIONAL PLACE, TOWER II 6410 POPLAR AVENUE SUTE 1000 MEMPHIS, TENNESSEE 38119-4839

DAVID WADE

DWADE@MARTINTATE.COM

TELEPHONE (901) 522-9000 FAX (901) 527-3746 NASHVILLE OFFICE

315 DEADERICK STREET, SUITE 1550 NASHVILLE, TN 3723B

TELEPHONE (615) 627-0668 FAX (615) 627-0669

November 5, 2020

Via Electronic Mail

Josh Whitehead Zoning Administrator Division of Planning and Development 125 N. Main, Ste. 468 Memphis, Tennessee 38103 Josh.whitehead@memphistn.gov

> Re: ZTA 20-1 – Proposed Amendments to the Memphis and Shelby County Unified Development Code

Dear Josh:

This office has been engaged by Neighborhood Preservation, Inc., and various neighborhood associations throughout the City of Memphis who wish to be heard regarding the referenced proposed amendments currently set for hearing at the November 12, 2020, Land Use Control Board Meeting. These groups comprise over a dozen associations with hundreds of members.

I have reviewed the proposed amendments, the Staff Report, and the Open Letter dated October 1, 2020, addressed to City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff. Mr. Quincy N. Jones, Director of Programs, NPI, discussed with me that he has sought a meeting with you regarding the proposed amendments and would like to pursue doing so.

The Letter of October 1, 2020, describes in detail the concerns and objections of these neighborhood groups. I certainly hope that it will be a part of the packet presented to the LUCB. In addition, DPD should also be receiving individual letters and emails from concerned residents regarding the amendments and the restructuring proposals. Please confirm their inclusion as well.

My clients would very much like to be in a position to appear personally before the LUCB to express their concerns and have asked me to respectfully request that DPD join with

MARTIN, TATE, MORROW & MARSTON, P.C.

November 5, 2020 Page 2

them to request a postponement of the hearing until the public meeting shut-down due to COVID-19 has been lifted. They believe, and I agree, that important issues such as these should be handled with active and in-person citizen attendance.

I called your office earlier today and the receptionist was not able to connect me through to either your or your voice mail, which is the reason for this letter. She suggested I contact you through email.

Also, I will save you from my having to repeat what the various groups have already submitted knowing that their materials will be part of the record.

If you can, please give me a call to discuss these matters. I hope all is well with you in these trying times we are living through.

Best regards,

David Wade

cc. Quincy N. Jones Quincey Morris Imani Jasper Andrew Kitsinger

Whitehead, Josh

From: Karen Stuart <klstuart49@yahoo.com>
Sent: Thursday, November 5, 2020 4:55 PM

To: Whitehead, Josh

Subject: UDC

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr Whitehead,

I have long thought that developers have way too much power in determining what kind of city Memphis will become, but the proposed changes to the UDC are truly a slap in the face to Memphis residents. I know developers have lots of money, but I had the naive belief that city officials might really care about the ideas and well being of those of us who actually live in the neighborhoods affected by their decisions. These changes must not be allowed, and should not even be considered until it is safe to have public input at meetings. I will be watching the outcome of this ill advised proposal.

Sincerely, Karen Stuart

Whitehead, Josh

From: christina ross <cdross72@hotmail.com>
Sent: Thursday, November 5, 2020 5:15 PM

To: Whitehead, Josh

Cc: Memphis Heritage, Inc.; Memphis Heritage, Inc.

Subject: Amendments to the UDC

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Josh,

I am writing in response to the amendments to the UDC presented in the ZTA-20-1 report. I think this document needs further revision before moving ahead. I read the suggested changes written by Quincy N. Jones of Neighborhood Preservation, Inc. He makes valid statements as to areas needing changes or not to be changed to continue to protect the historic districts. One area he did not mention are the changes to the **Neighborhood Meetings (64.9.3.2B-D)** and **Public notice (65.9.3.4A)**. The changes to both may be helping the neighborhoods in their communication process, but I would like to see both explained better.

Thank you, Christina Ross Lea's Woods



November 5, 2020 Land Use Control Board 125 N Main Memphis, TN 38103

Subject: ZTA 20-1

Evergreen Historic District Association's Board and Planning Committee have reviewed the proposed amendments to the Unified Development code listed in the staff report for ZTA 20-1. We have concerns about negative impact from these amendments to the rights of residents and neighborhoods to be able to participate effectively in the determination of consistency with Memphis 3.0.

In a letter from Neighborhood Preservation, Inc. dated October 1, 2020, there are laid out specific concerns with the proposed amendments. Evergreen strongly endorses and agrees with the concerns, comments and recommendations laid out in this letter.

Specifically, we completely agree with NPI regarding amendments proposed to UDC Sections 1.9, 8.4.5d, 8.4.6, and 9.22.10, and 10.5.1. Taken together, the effect of these proposed changes makes it more difficult for our neighborhood group and other citizens to have an effective voice regarding proposed development. They also dilute the protections now provided by Land Use Control Board and Memphis Landmarks Commission. Neither are desirable outcomes.

Thank you for your thoughtful consideration.

Jeremy Williams 1st Vice President, Evergreen Historic District Association

Whitehead, Josh

From: Cathy Winterburn <cAthywinter@yahoo.com>
Sent: Thursday, November 5, 2020 8:15 PM

To: Whitehead, Josh
Subject: UDC proposed changes

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As a 45 year resident of a historic neighborhood (Annesdale Park) I am opposed to these changes. They will diminish the quality of life in our historic neighborhoods!

Sent from my iPhone

Whitehead, Josh

From: Jennifer Amido < jenniferamido@gmail.com>
Sent: Thursday, November 5, 2020 9:28 PM

To: Whitehead, Josh
Subject: Staff report on ZTA 20-01

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Regarding OPD Staff report on ZTA 20-01

Thank you for your time, and much attention to detail as the OPD staff has tackled some of the issues with the UDC.

However I believe the following sections should remain:

Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys.

The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Furthermore, if alley ways are closed, adjustments to city/engineering maps to indicate the closers so new property owners do not try to access public alley ways.

Also I oppose changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10

We want to continue the participation of citizens and neighborhoods in the land use approval process. Allowing residents, communities, neighbors, and community organizations the option to voice their opposition or approval. Having citizen input is beneficial for the city and its development. Strong citizens produce strong communities, which produce strong cities! Land Use & Control Board has the benefit of hearing and making decisions with citizens input, which will lead to a greater city.

Thank you for your time and consideration!

-Jennifer Amido Crosstown Resident and Community Organizer



November 5, 2020

To: Office of Planning and Development From: Central Gardens Neighborhood Association Re: ZTA 20-1

To City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff, regarding proposed amendments to the Unified Development Code (UDC) in the staff report for Zoning Text Amendment (ZTA) 20-1,

We of the Central Gardens Neighborhood Association, Executive Committee and Landmarks Committee are joining the Neighborhood Preservation Inc. (NPI) open letter expressing concerns over the proposals in ZTA 20-1.

In particular, we join NPI in opposing the concerning changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 "that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB)."

We understand that the BOA process is more streamlined at a time when the planning department is processing more and more applications. However, as compared to the longer, two-step LUCB process this attempt at streamlining allows for significantly diminished neighborhood participation in the land use approval process. In addition, the BOA process allows no appeal to the Memphis City Council. This more unimpeded approach would seem to encourage developers to apply to the BOA in all cases, and we believe that this change would tip development scales in favor of developers and away from nearby neighbors and neighborhoods protecting their investments and quality of living.

We support NPI's request of the removal of these amendments to the UDC regulations in ZTA 20-1. We also support an exploration of better ways to improve the application process, but most definitely not at the expense of neighborhood input as proposed in these amendments.

Sincerely, The Central Gardens Executive and Landmarks Committee Sharon Shipley, President Shelly Rainwater, Vice President and Landmarks Chair Mark Fleischer, Past President

Whitehead, Josh

From: Sunny Franklin <sunny.franklin@gmail.com>
Sent: Thursday, November 5, 2020 9:42 PM

To: Whitehead, Josh

Subject: Proposed Changes to the UDC

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Whitehead,

I'd like to add my support to the open letter submitted by Quincy Jones of Neighborhood Preservation, Inc. expressing concerns about the proposed changes to the UDC:

It is imperative that citizens and neighbors retain their ability to voice concerns about development in this city in a way that does not automatically favor or prioritize developers. Thank you for your careful consideration. Sincerely,
Sunny Franklin

Whitehead, Josh

From: Britton White <bwhite@technologyprocesses.com>

Sent: Friday, November 6, 2020 12:17 AM

To: Whitehead, Josh

Cc: matthew.hollon@shelbycountytn.gov; Shular, Steve; marlinee.iverson@shelbycountytn.gov;

robert.rolwing@shelbycountytn.gov; Zeanah, John; lisa@etheridgeenterprises.com;

rnorcross@lrk.com; tolesassoc@aol.com; dlyleswallace@comcast.net;

sfleming@flemingarchitects.com; mwsharp@bellsouth.net; brannon.n@gmail.com; rnbwilliams@earthlink.net; jenniferbethoconnell@gmail.com; wjones17157@aol.com;

shefelal@aol.com

Subject: OPD Staff Report ZTA 20-1

Attachments: ZTA 20-1 Staff Report 1 VBW.pdf; MSG Performance Bond E-Mail Thread 2020.docx; Branan Fahy

TRC Timelines.docx; TRC Rules of Procedure.pdf; Tech Review Committee ZTA 13-002 Complete UDC .pdf; 12.12.13 Staff Report TRC.pdf; ZTA 15-002 Staff Report - FINAL final.pdf; ZTA 16-001 Staff

Report revised 201609011553566952.pdf

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Mr. Whitehead,

Reaching out to you and members of the LUCB and Memphis City/Shelby County Government to advise that I oppose the proposed amendments highlighted in the attached Staff Report (1st attachment).

It's interesting to see the proposed language in item 12 on page 9 when back in May of this year Mr. Rolwing stated, "The County Commission determined in these conditions that MSG could re-countour the land as described in the other conditions and the ordinances or, "in lieu of" that, that OPD could defer to the Tennessee Department of Environment and Conservation on the subject. TDEC is very strict, some might say notoriously strict, about compliance with environmental regulations and safety. Essentially, the County Commission determined that if the reclamation were approved by TDEC, then that plan is sure to be environmentally sound. It is in any event beyond the jurisdiction and expertise of OPD to challenge TDEC's approval of the reclamation plan. We may not agree with these conditions, but the County Commission at the time approved them, and they therefore govern the permits."

At that time, Mr. Rolwing stated the County Commission accepted the TDEC reclamation plan for MSG Rosenberg in this case, and that there was no need for a performance bond. If that was the case then, why is the language being adjusted here/now? During a Code Enforcement meeting back in March of this year, a member of Code Enforcement stated then there was no process to secure performance bonds. Mr. Rolwing stated the County was working on a system to address that issue, which obviously appears to not have been the case. The meeting at Code Enforcement included Chip Saliba, Robert Rolwing, Commissioner Amber Mills, myself, another Shelby County resident, and three members of Code Enforcement

In the current proposed changes, the City of Memphis & Shelby County are looking to formalize that which Mr. Rolwing stated previously was already in place. Further, since the City of Memphis and Shelby County are unfamiliar with TDEC rules and regulations related to mining and land-fill reclamation, how can the LUCB, the City of Memphis, and Shelby County make informed decisions as to what is best for the county as a whole? TDEC is concerned with environmental laws and regulations of Tennessee, not oversight of the UDC. TDEC is also unable to proactively enforce its own rules and regulations due to a lack of staffing. TDEC does not care how large the holes are, how much water is left behind in those holes, or if trees are clear-cut and never replanted. TDEC is only concerned about the quality of water discharged

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from mining sites. As an example, the Memphis Stone and Gravel Griffin pit is expected to hold 560 acre feet of water as drawn out in the last MSG TDEC application for the Griffin pit. That is the equivalent to 560 football fields, including the end zones, each with one (1) foot of water.

Item 74 on page 35 states the City and/or County may also seek an injunction or other order of restraint related to UDC code violations, however, both the City of Memphis and Shelby County have blocked my repeated attempts to submit to environmental court the multiple SUP and Shelby County Code violations committed by Memphis Stone and Gravel. Item 67 on page 31 adds language that the governing body may refer the matter to the Land Use Control Board for a recommendation on revocation. The LUCB is supposed to administer the UDC, but how can the LUCB administer the UDC or make a recommendation on revocation when the LUCB has proven it makes decisions that are outside of the UDC provisions?

As an example, in August of 2015 Memphis Stone and Gravel was granted a 10-year extension on SUP 04-213. The UDC doesn't contain a provision where any extension beyond two years is an option. This past July, the LUCB granted Memphis Stone and Gravel a modified four-year extension for their Rosenberg pit. Again, the UDC doesn't contain a provision where any extension beyond two years is an option. Keep in mind the Rosenberg permit was technically void due to no mining activity for over eight (8) years, yet the LUCB and Shelby County Commission approved the extension, which in and of itself violated Shelby County Code. None of the mining applications prior to the May 2020 Rosenberg application contained an Affidavit as required by the UDC. No tree removal permit was ever secured by Memphis Stone and Gravel for the Rosenberg pit, nor was a tree removal permit secured by Hobson Development for another nearby pit. Performance bonds have not been secured by the City of Memphis or Shelby County as stipulated in the conditions of each special use permit and Shelby County Code. So we have application issues, no oversight of special use permits, and multiple SUP and Shelby County code violations, none of which have been addressed by the City or County. To top it all off, there have been several, recent violations of TDEC rules and regulations at Memphis Stone and Gravel pits Rosenberg and Crenshaw.

Further, I find it very interesting to see where Memphis Stone and Gravel's attorney, Homer Branan, is listed as being on the UDC Review Committee. In the attached ZTA 16-001 Staff Report from September 2016, page 29 clearly shows Mr. Branan listed as "Scrappy Branan" in the CC field, but he's also named elsewhere. Additionally, Memphis Stone and Gravel's spokesperson at the February 2019 County Commission meeting is none other than Michael Fahy, who is also listed as a member of the UDC Review Committee and owns Prime Development. How is it possible for non-City/County employees to be members of the UDC Review Committee or Technical Review Committee when section 9.1.8 of the UDC clearly states, "The Technical Review Committee is comprised of City and County agencies".

So we've had representatives of organizations, who've submitted applications to the LUCB, the City of Memphis, and Shelby County for themselves or on behalf of others, also have their hands in reviewing/modifying Memphis City and Shelby County Code? Clearly this is in direct violation of Memphis City and Shelby County Code. Does anyone have any ethical concerns here?

In previous e-mails with Mr. Hollon, he stated he's shared my request for an official response with the appropriate staff from the County Mayor's Office, yet there's been no response. I understand the City of Memphis has spent \$85 million dollars with Memphis Stone and Gravel's parent company, Lehman-Roberts, over the last eleven years on paving. When I presented my MSG Rosenberg appeal to the Shelby County Commission back on September 28, 2020, it was interesting to see the Chairman of Lehman-Roberts, Pat Nelson, sitting in the back by himself.

All of this being said,	I believe you now	understand why	I am opposed to	o Staff Report ZTA 20-1.
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Sincerely,

W. Britton White

2

Whitehead, Josh

From: Charles Belenky <cbelenky@gmail.com>
Sent: Friday, November 6, 2020 6:31 AM

To: Whitehead, Josh

Subject: Proposed Amendments UDC

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Whitehead;

I have just learned of this proposal.

I don't think there has been adequate notice and public participation for this to move forward at this time.

If there are going to be forums to discuss this change, please let me know.

Very Truly Yours

Charles Belenky

Whitehead, Josh

From: Justin Gillis <jusgillis@gmail.com>
Sent: Friday, November 6, 2020 6:55 AM

To: Whitehead, Josh

Subject: UDC Changes - Opposed

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I oppose the proposed UDC changes. They reduce the ability of residents to participate in the development of Memphis, limit notifications to residents, and directly impact the City Councils ability to represent the residents of Memphis. This should wait until the people of Memphis can speak on the topic in meetings. The timing is inappropriate.

Justin Gillis 1276 Faxon Ave. Memphis, TN 38104

Whitehead, Josh

From: Holly Jansen Fulkerson < holly@memphisheritage.org>

Sent: Friday, November 6, 2020 7:15 AM

To: Whitehead, Josh
Subject: Opposition to ZTA 20-1

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

On behalf of Memphis Heritage and the historic neighborhoods we work to support, we are voicing our opposition to several of the proposed amendments to the UDC.

We have signed on to the Neighborhood Preservation Inc.'s letter that addresses each concern in detail, but I wanted to emphasize that our overall concern is that several of the proposed changes will take away citizens' ability to voice their concerns about development in our neighborhoods. We feel that many of these changes will tip the scales in favor of developers and away from neighbors.

We request the Board hold this case for 30 days to allow for more discussion with the OPD, so that more citizens may understand the proposed changes to this highly technical document. Maybe the OPD could host a public meeting and explain the proposed changes and the intent behind them?

Thank you,

Holly

Holly Jansen Fulkerson Executive Director Memphis Heritage, Inc. 2282 Madison Avenue Memphis, TN 38104 901-272-2727



Updated Thursday November 5th, 2020

An Open Letter to City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff.

We are writing to express concerns about the proposed amendments to the Unified Development Code (UDC) listed in the staff report for ZTA 20-1 and to request revisions in the proposed amendments. Our concerns are in reference to:

- 1. Section 1.9 Consistency with Memphis 3.0,
- Section 8.4.5D and 9.22.10B to send deviations from the UDC to the Board of Adjustment rather than to the Land Use Control Board,
- 3. Section 10.5.1 Amendment to change the meaning of the nonconforming lots regulations,
- 4. Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys,
- 5. Sections 2.6.4D and 6.5.1 deferring to TDEC regulations.

We believe it is very important to preserve the rights of citizens and neighborhoods affected by land use applications to participate effectively in the determination of consistency with the Memphis 3.0 general plan. In the recent case of the Connections Center Special Use Permit 20-01 proposed for Jackson Ave, Office of Planning and Development staff determined that the Center application was consistent with 3.0. However, a coalition of neighborhood groups and citizens did not agree the use was consistent and felt strongly that it would be harmful to the continued improvement in their neighborhoods. We request to add the following language to UDC section 1.9B to make it clear that citizens and neighborhoods who disagree may effectively challenge the interpretation of consistency as the item is considered by boards and bodies responsible for making land use decisions.

Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.

We are opposed to the changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB). We request the removal of these amendments to the UDC regulations. There are substantial differences in public notice and the length of time available for citizen participation in the BOA process as compared to the LUCB process which we believe significantly diminish the rights of citizens and neighborhoods to participate in the land use approval process. A very important difference is that the LUCB is a longer, two-step process which allows an appeal to the Memphis City Council. The BOA process is a significantly shorter, one step process which allows no appeal except to go to court which is out of reach for most citizens and neighborhoods.

The OPD staff report proposes to make this change in process to reduce the situations in which a property owner must go to the LUCB (Special Exception) and the BOA (Variance) for relief from the regulations. However, evidence in the annual reports to LUCB show that there are very few applications for Special Exceptions; 2020 - I (maybe 2), 2019 -1, 2018 - 0 and 2017 -1. With so few Special Exception cases, there is no reason for this change which makes it hard for citizens to have a voice in the land use approval process. No appeal to the City Council means that all developers will choose the BOA process if the process is written as a choice as proposed in this ZTA staff report.



We are opposed to the proposed amendments to UDC Section 10.5.1, which change the meaning of the nonconforming lots regulations. According to the OPD staff report, the reason for this change to regulation of nonconforming lots is that this has always been the intent of the regulations. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

At first glance this change may appear to support infill development and density that will improve the city by making housing more affordable. However, its actual effect has been to promote demolition of affordable existing homes which have been replaced by very expensive "tall skinny" homes on 25-foot lots. These homes have contributed to changing the Cooper Young neighborhood from a mixed income neighborhood to one that is too expensive for citizens with low and moderate income. We ask that this proposed change to the nonconforming lots regulations be removed from the list of proposed changes to the UDC in ZTA 20-1. This proposed change in the nonconforming lots regulations will legalize the practice of purchasing a 50-foot lot, demolishing the original home and building "tall skinny" homes on 25-foot-wide lots.

We are opposed to the changes to UDC Section 9.8.6B, amending the requirements for notice regarding the closure of alleys. The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Simply posting a sign three years after a permit was issued to allow an extension is not sufficient notice for the affected property owners, regardless if the same owners agreed to the previous closure permit.

We believe that the closure of landfills should be reviewed by local government. While TDEC approved reclamation plans may be sufficient, there may be cases in which local requirements may be more demanding. There is no reason for local government to give up this authority. regarding landfills. We oppose the changes proposed under Sections 2.6.4D and 6.5.1 and request that the language remain as is.

We are joined in sending this letter with our partners in working for a better Memphis who also hope that our suggestions are included in the final adopted version of the amendments to the Unified Development Code. The full list of partners is included in the signature line of this letter. Our specific areas of concern, additions, and suggestions are listed on the next page.

Respectfully Submitted,



Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.





Charia Jackson, Frayser CDC; Board President, BLDG Memphis



Quemaframe

Ms. Quincy Morris, President, Klondike Smokey City, CDC



Seth Harkins. Executive Director Alcy Ball CDC





Free D. Mansard

Felecia Hartsfield, Vice President and Chief Operating Officer, Influence I Foundation

Jennifer Amido, President Crosstown Neighborhood Association

Justin Gillis, Speedway Terrace Historic District

Anna Joy Tamayo, President, Crosstown CDC

OWILL, chair

Olivia Wall, Chair, Cooper Young Community Association Development Committee



Calvin Lacey, President, Rozelle-Annesdale Area Association

Calvintanfed.

Chris Studaway. President. North Crosstown Neighborhood Association

Jean Jordan, President, Glenview Edgewood Manor Area Association

Also supporting but unable to send in signatures:

The Central Gardens Executive and Landmarks Committee

Sharon Shipley, President Shelly Rainwater, Vice President and Landmarks Chair Mark Fleischer, Past President

David Payne. Sixty Point One Neighborhood Association

Christopher L. Church, President, Annesdale Snowden Neighborhood Association

Cassandra Dixon; Representative for Hernando Community Neighbors, Prospect Park Neighborhood Association, 60.1 Neighborhood Association and Longview Heights Neighborhood Association



Sections of ZTA 20-01 with our suggested changes

The numbering scheme below reflects the numbered items in the OPD staff report

- 4. 1.9 Consistency with Memphis 3.0 and references to the Major Road Plan, Add bolded and underlined text
 - 1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED
 - A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.
 - B. Determination of Consistency. When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. <u>Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.</u>
 - C. Memphis 3.0 and this Code the Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.
 - D. The following plans shall be considered in any decisions under this development code...
- 12. 2.6.4D and 6.5.1: TDEC's involvement with landfills and gravel mining, Keep current version 6.5.1D: All excavations shall be filled and the land restored, re-graded and re-sloped as nearly as practicable to its original condition, and grade within 90 days after the date sand, gravel or other extraction operations cease...
 - 6.5.1E: Land shall be restored, re-graded and re-sloped as nearly as practicable to its original condition and grade provided, however, that after such reclamation activities, no slope on such land shall be steeper than three feet horizontal to one foot vertical and no greater quantities of drainage water shall flow onto adjoining properties or shall flow at a faster rate onto adjoining properties than such drainage water flowed prior to the commencement of sand, gravel or other extraction or processing activities on the land reclaimed
- 59. 8.4.5D, 9.22.10B and 9.22.10C (new section): Variances and similar applications; Keep current version
 - 8.4.5D: Unlisted and Listed Standards: Any request for a deviation from a standard of the Unified Development Code not included in the Midtown District Overlay shall be reviewed by the Board of Adjustment in accordance with Chapter 9.22, Variances. Any request for a deviation from a standard included in the Midtown Overlay District not listed as an Administrative Deviation shall be reviewed by the Land Use Control Board as a Special Exception, in accordance with Section 8.4.6, below
 - 9.22.10 (section heading) Pending Applications
 - 9.22.10B: If a variance application also requires the approval of a special exception (see Chapter 9.14),



the Board of Adjustment may consider the special exception as a variance request. Under such a circumstance where the request involves additional height, the Board of Adjustment may only grant the request for additional height if it makes a finding that the subject site exhibits extraordinary topographic conditions.

9.22.10C Do not add

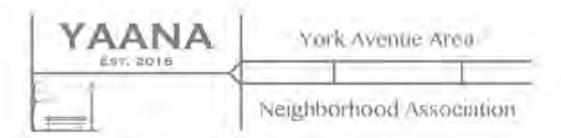
68. 9.8.6B: Sign posting for street and alley closure extensions, Keep current version

Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification. For conversions and physical closures, mailed notice shall also be delivered to all property owners within a five three hundred (500) (300) foot radius of the street or alley closing

73. 10.5.1 Nonconforming lots and tracts; Keep current version

10.5.1: In any district in which single-family detached dwellings are a permitted use, not withstanding the regulations imposed by any other provisions of this development code, a single-family detached dwelling which complies with the restrictions of Section 10.5.2 below may be erected on a nonconforming lot that is not less than 25 feet in width, and which:

- A. Has less than the prescribed minimum tract or lot area, width and depth, or any of them;
- B. Is shown by a recorded plan or deed to have been a lot of record or tract owned separately and individually from adjoining tracts of land at a time when the creation of a lot or tract of such size, depth and width at such location would not have been prohibited by any zoning or other ordinance; and
- C. Has remained in separate and individual ownership from adjoining tracts of land continuously since March 1, 1989.



November 6, 2020

To: Office of Planning and Development
From: York Avenue Area Neighborhood Association (YAANA)
Re; ZTA 20-1

To City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff, regarding proposed amendments to the Unified Development Code (UDC) in the staff report for Zoning Text Amendment (ZTA) 20-1,

We of the York Avenue Area Neighborhood Association are joining the Neighborhood Preservation Inc. (NPI) open letter expressing concerns over the proposals in ZTA 20-1.

In particular, we join NPI in opposing the concerning changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 "that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB)."

We understand that the BOA process is more streamlined at a time when the planning department is processing more and more applications. However, as compared to the longer, two-step LUCB process this attempt at streamlining allows for significantly diminished neighborhood participation in the land use approval process. In addition, the BOA process allows no appeal to the Memphis City Council. This more unimpeded approach would seem to encourage developers to apply to the BOA in all cases, and we believe that this change would tip development scales in favor of developers and away from nearby neighbors and neighborhoods protecting their investments and quality of living.

We support NPI's request of the removal of these amendments to the UDC regulations in ZTA 20-1. We also support an exploration of better ways to improve the application process, but most definitely not at the expense of neighborhood input as proposed in these amendments.

Sincerely,
Eddie Hutchison, 1736 York Ave
Ira Hubert, 1736 York Ave
Erin & Julian Malone, 1771 York Ave
Cassie King, 1767 York Ave
Caitlin Bond, 1750 York Ave
Lara Reynolds, 1777 York Ave
Candy Justice, 1702 York Ave
Joyce McKibben, 1898 York Ave
Peggy Owen, 1827 York Ave
Karen Morrison, 1902 York Ave

Greare Sutherland, 1640 York Ave Michael Herndon, 1640 York Ave Torn Fabrizio, 1869 York Ave Vicki Campbell, 1697 York Ave

Dec. 10, 2020

Memorandum

To: Josh Whitehead, Zoning Administrator

From: Jean McInerney Date: November 5, 2020

Re: Proposed Amendments to the Memphis and Shelby County Unified Development

Code, Case ZTA 20-1

In connection with the Land Use Control Board's (LUCB) annual review of proposed amendments to the Memphis and Shelby County Unified Development Code (UDC), I offer some observations below as well in the attached PDF file about some (but not) all of the staff-recommended revisions. Please include these comments in the Staff Report for consideration at the November 12, 2020, LUCB public meeting.

As a resident leader who is involved in my neighborhood's internal review processes for zoning cases, I request and recommend that staff and the LUCB consider the below revisions.

Fully Engage the Impacted Neighborhood

 Neighborhood Notification and Meeting - Although not proposed in the <u>ZTA 20-1 Staff</u> <u>Report</u>, where a neighborhood meeting is required, I recommend that § 9.3.2A be amended to allow a minimum of fourteen days prior to the LUCB hearing (redlined text below).

At least ten fourteen days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall host and/or attend a neighborhood meeting...

- When the neighborhood meeting is held ten days prior to the LUCB hearing, it is very
 difficult for a neighborhood association and individual residents to synthesize information
 presented (or promised) at that meeting and to make an effective and timely submission
 to the Division of Planning and Development (DPD) for inclusion in the Staff Report.
- While it is true that neighborhood comments may be submitted after the Staff Report deadline, it is my observation that comments submitted after the Staff Report deadline might not receive the same level of attention for no other reason than distribution and time limitations.
- 2) Determination of Consistency with Memphis 3.0 Comments from residents in the impacted neighborhood must also be considered (e.g., § 1.9B). Neighborhood engagement is a critical component throughout the UDC and should be specifically provided for in this section.
- 3) Special Use Permit Revocations Please require notice to all neighborhood associations registered with the Memphis Office of Community Affairs, as well as those on file with the Division of Planning and Development. (Note: This suggestion is intended to result in providing the same notice required in Paragraph 9.3.4D(2) for a new application.)

Date: November 5, 2020

Re: Proposed Amendments to the Memphis and Shelby County Unified Development Code,

Case ZTA 20-1

Further Clarify Process

4) Community Impact Statements - As I understand current practices, neighborhood or business associations submit Community Impact Statements to the DPD planner assigned to the case. For consistency, I therefore suggest that § 9.3.2D clarify that neighborhood or business associations shall submit Community Impact Statements to the Zoning Administrator or DPD staff. Please see the below redlined text (an idea is in purple).

...Neighborhood or business associations who intend to file a CIS must submit said statement to the Division Land Use Control Board or governing bodies no later than 5 days prior to the scheduled hearing date. If provided prior to the publishing of the Land Use Control Board staff report, the CIS shall be included within the staff report in a prominent position alongside the Land Use Control Board and Division Office of Planning and Development recommendations.

5) Public Notice - During DPD's recent review of a Minor Subdivison application in my neighborhood, it is my understanding that the notices mailed could be for a smaller radius geographic area than applications reviewed by the LUCB. If that is accurate, and since the Staff Report recommends the Public Hearing and Notification Table in Sub-Section 9.3.4A require a mailed notice for a Technical Review Committee meeting related to a minor subdivision for consistency with current practices, this seems to be a well-timed opportunity to also discuss the simplicity of having one radius of notifications for both the TRC and LUCB.

Closing

I commend the DPD for its professionalism and attentiveness to keeping the UDC current. Thank you for the opportunity to offer these comments, and to the LUCB members for considering them.

cc: Frank Colvett, Jr., Memphis City Council Vice-Chairman and Planning & Zoning Committee Chairman

2

2020-11-05 ZTA 20-1 Spreadsheet - McInemey Comments

Current UDC §	Support?	Topic	Notes: Staff-Proposed Amendment	Comments
9.3.2B and D	Yes	Neighborhood Meetings	Include all neighborhood associations registered with the Memphis Office of Community Affairs, as well as those on file with the Division of Planning and Development as invitees to required neighborhood meetings.	Appropriate
9.3,2B and D	Yes	Neighborhood Meetings	Identify neighborhood association meeting invitation recipients by the zip code of its official business address rather than 1500 feet from the subject property.	Appropriate
9.3.2D	Yes	Community Impact Statement	Permit Community Impact Statement written by neighborhood or business associations to be submitted prior to the board or governing body meeting.	Appropriate
9.3.2D	Recommend this clarification or addition	Community Impact Statement	In my experience, the customary practice for neighborhood or business associations is to submit Community Impact Statements to Staff. I believe that further amendment to the sentence ending with "must submit statement to the Land Use Control Board or governing bodies," would be helpful.	I suggest an amendment that neighborhood or business associations submit Community Impact Statements to the Zoning Administrator or DPD staff.
12.3.1 and throughout	Yes	Terms	Change "Planning Director" to "Zoning Administrator" and the "Office of Planning and Development," or "OPD" to "Division of Planning and Development," or "DPD."	Appropriate for clarity due to DPD reorganization underway
1.9A, 1.9C, 1.9D (and Table of Contents for this Chapter)	Yes	Consistency of 3.0 and Other Plans	Include the Memphis 3.0 General Plan in the list of plans to be consulted when an application is filed pursuant to the Code, as well as a reference to the consistency section of the Tennessee Code Annotated.	Appropriate
1.9B (and Table of Contents for this Chapter)	In part	Determination of Consistency	List Memphis 3.0 decision criteria as an approving board or body's determination of consistency.	Agree that some decision criteria should be included.
	Recommend this addition	Determination of Consistency		Please stipulate that comments from residents in the impacted neighborhood shall also be considered.

2020-11-05 ZTA 20-1 Spreadsheet - McInerney Comments

Current UDC §	Support?	Topic	Notes: Staff-Proposed Amendment	Comments
2.2.3C(2), 2.2.3C (3), 2.9.2A, 8.2.9 F, 8.3.12F and 12.3.1	Yes	Upper-story residential	Select one term and one definition for "upper story residential" and "upper-story residential" terms	Appropriate for clarity
2.5.2	Yes	Standalone car washes	Move this use from the Retail Sales and Service category to a new use category of Vehicle Sales Service and Repair.	Appropriate
2.7.2A(4) and 12.3.1	Yes	Accessory structures in residential front yards	Clarify the prohibition of accessory structures in residential front yards and implement the recommended accompanying corresponding "front yard" and "required front yard" definitional changes.	Appropriate
2.7.6	Yes	Swimming pool equipment in the side yard	Wall or fence to prevent uncontrolled access to such swimming pool from the street or from adjacent properties. Prohibit such swimming pool from being located in any required front yard and from being closer than five feet to any property line.	Appropriate for clarity and safety
2.9.4J:	Yes	Tire sales	Differentiate between establishments selling new and used tires and to require the issuance of a Special Use Permit for used tire sales in the CMU-1 and CMU-2 districts.	No objections
2.9.4J	Yes	Automobile service stations	Strike "automobile service station" from Sub-Section 2.9.4J (vehicle sales, leasing, repair and service) since this use is already listed in Sub-Section 2.9.4H (retails sales and service).	Appropriate for clarity and to eliminate potential process inconsistencies
3.2.6A(1) and (6)	Yes	Building height	Correct the graphic to match the language of the narrative.	Appropriate for clarity
3.3.1B	Yes	Lot widths	Govern lot frontage solely by the zoning district's lot width requirements.	Appropriate to avoid tens of thousands of nonconforming lots
3.9.1A, 3.9.2B(4) and 3.9.2l	Yes	Contextual infill standards	Exempt garages and carports constructed prior to January 1, 2020, from this section to make it clear that they shall not be considered nonconforming.	Appropriate for clarity
3.9.2A, 3.9.2B(4) and 3.9.2l	Yes	Contextual infill standards	Exempt dwellings constructed prior to January 1, 2020, from this section to make it clear that they shall not be considered nonconforming.	Appropriate for clarity

2020-11-05 ZTA 20-1 Spreadsheet - McInerney Comments

Current UDC §	Support?	Topic	Notes: Staff-Proposed Amendment	Comments
4.5.2	Yes	Parking on grass	Prohibit parking on grass in residential zoning districts	Appropriate for consistent administration throughout Shelb County
4.6.7E(1) and 4.6.7(E)4	Yes	Fencing	Eliminate a contradiction re: permissible fencing materials. Add stucco as an acceptable type of masonry for walls.	Appropriate
4.9.2, 4.9.8	Yes	Billboards	Codify current interpretations of the Code with regard to billboard placement and splaying.	Appropriate for notice
4.9.2B(4), (5) and (6)	Yes	Billboards downtown	Other than standalone, or detached, off-premise advertising (billboards), redirect billboards downtown to the Downtown Memphis Commission's Code of Ordinances.	Appropriate for notice
9.2.2	Yes	TRC review of ROW vacations	To the Zoning Administrator, grant the discretion on which right-of-way vacations should be heard by the Technical Review Committee.	Appropriate
9.3.4A	Yes	Public notice	Amend the Public Hearing and Notification Table in Sub-Section 9.3.4A to require mailed notice for a Technical Review Committee meeting related to a minor subdivision for consistency with ourrent practices.	Appropriate
9.3.4A	Recommend this clarification or addition	Public notice		I suggest that notices be sent to the same geographic area as regular zoning application
9.6.11D(3)(c) and 9.6.11E(1)	Yes	Amendments to approved Planned Development outline plans	For outline plan amendments, assign a new case number which applies only to the site subject to the amendment.	Appropriate for administrative efficiency
9.6.15B	Yes	Special Use Permit revocation process	Add permissible referral to the LUCB for recommendation prior to a governing body's evidentiary hearing.	No objection
Yes		Special Use Permit revocation process	Specify that all hearings associated with a revocation shall be open to the public	Appropriate
	Yes	Special Use Permit revocation process	Provide certified notice mailed to the owner of the property that is the subject of the special use permit or planned development.	Appropriate
	In part	Special Use Permit revocation process	Require mailed notice in accord with Paragraph 9.3.4D(1).	

2020-11-05 ZTA 20-1 Spreadsheet - McInemey Comments

Current UDC §	Support?	Topic	Notes: Staff-Proposed Amendment	Comments
	Recommend this addition	Special Use Permit revocation process	Require notice in accord with Paragraph 9.3.4D(2).	Please add required notice to all neighborhood associations registered with the Memphis Office of Community Affairs, as well as those on file with the Division of Planning and Development.
9.23.1A, 9.23.1C (1), 9.23.2A and 9.2.2	Yes	Appeals	An appeal of a minor preliminary plan, as well as those other items articulated in Section 9.2.2, may only be taken to the LUCB.	No objection
11.1	Yes	Injunctive relief	Add injunctive relief for violations of UDC provisions other than tree and sign ordinances.	
12.3.1	Yes	Boarding House and Rooming House	Provide examples of quantifiable evidence of the existence of these uses	I support the additional language to aid in the citation of these uses in Environmental Court
12.3.1	Yes	Group Shelter	Eliminate instances of Zoning Administrator approval from the definition	Appropriate to codify current practice
12.3.1	Yes	Nursing Home	Eliminate instances of Zoning Administrator approval from the definition	Appropriate to codify current practice
12.3.1	Yes	Residential Home for the Elderly	Eliminate instances of Zoning Administrator approval from the definition	Appropriate to codify current practice
12.3.1	Yes	Transitional Home	Eliminate instances of Zoning Administrator approval from the definition	Appropriate to codify current practice

December 3, 2020

Josh Whitehead
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste 468
Memphis, TN 38103
Josh.Whitehead@memphistn.gov

Re: ZTA 20-1 - Proposed Amendments to the Memphis and Shelby County Unified Development Code.

Mr. Whitehead,

My opposition to ZTA 20-1 and the process by which DPD is working to push through these changes without those opposed being able to present in person in front of the LUCB has not changed since my original e-mail dated November 6, 2020. These matters should be addressed in person, not via internet conference calls due to technical issues/constraints imposed on those in opposition.

For continuity purposes, I have included in this letter the entire e-mail thread regarding Memphis Stone and Gravel's continued violations of Shelby County Code and Special Use Permit conditions, which include no performance bonds having ever been posted. This thread demonstrates Shelby County's lack of enforcement related to performance bonds, which is supported in the communication between January 10, 2020 and May 4, 2020.

It is abundantly clear that DPD and Shelby County are attempting to cover its collective tracks specifically related to the requirement that performance bonds be posted prior to the commencement of mining activity. These have been standard conditions set forth in all Special Use Permits and have been supported by Shelby County Code well before the UDC became effective. In Section 12 of the Staff Report, DPD states, "This proposal will eliminate the requirement that a performance bond with the Building Official, as it appears this has rarely if ever been done in the past, and allow land reclamation plans approved by TDEC to satisfy the requirements of the UDC that a property be returned to its predevelopment state."

In the DPD ZTA 20-1 Staff Report, it's interesting to see this proposed language in item 12 on page 9 when back in May of this year Mr. Rolwing stated, "The County Commission determined in these conditions that MSG (Memphis Stone and Gravel) could re-countour the land as described in the other conditions and the ordinances or, "in lieu of" that, that OPD could defer to the Tennessee Department of Environment and Conservation on the subject. TDEC is very strict, some might say notoriously strict, about compliance with environmental regulations and safety. Essentially, the County Commission determined that if the reclamation were approved by TDEC, then that plan is sure to be environmentally sound. It is in any event beyond the jurisdiction and expertise of OPD to challenge TDEC's approval of the reclamation plan. We may not agree with these conditions, but the County Commission at the time approved them, and they therefore govern the permits."

At that time, Mr. Rolwing stated the County Commission accepted the TDEC reclamation plan for MSG Rosenberg in this case, and that there was no need for a performance bond. If that was the case then, why is the language being adjusted here/now? During a Code Enforcement meeting back in March of this year, a member of Code Enforcement stated then there was no process to secure performance bonds. Mr. Rolwing stated the County was working on a system to address that issue, which obviously appears to not have been the case. The meeting at Code Enforcement included Chip Saliba, Robert Rolwing, Commissioner Amber Mills, myself, another Shelby County resident, and three members of Code Enforcement.

In the current proposed changes, the City of Memphis & Shelby County are looking to formalize that which Mr. Rolwing stated previously was already in place. Further, since the City of Memphis and Shelby County are unfamiliar with TDEC rules and regulations related to mining and land-fill reclamation, how can the LUCB, the City of Memphis, and Shelby County make informed decisions as to what is best for the county as a whole? TDEC is concerned with environmental laws and regulations of Tennessee, not oversight of the UDC. TDEC is also unable to proactively enforce its own rules and regulations due to a lack of staffing. TDEC does not care how large the holes are, how much water is left behind in those holes, or if trees are clear-cut and never replanted. TDEC is only concerned about the quality of water discharged from mining sites. As an example, the MSG Griffin pit is expected to hold 560 acre feet of water as drawn out in the last MSG TDEC application for the Griffin pit. That is the equivalent to 560 football fields, including the end zones, each with one (1) foot of water.

Item 74 on page 35 states the City and/or County may also seek an injunction or other order of restraint related to UDC code violations, however, both the City of Memphis and Shelby County have blocked my repeated attempts to submit to environmental court the multiple SUP and Shelby County Code violations committed by Memphis Stone and Gravel. Item 67 on page 31 adds language that the governing body may refer the matter to the Land Use Control Board for a recommendation on revocation. The LUCB is supposed to administer the UDC, but how can the LUCB administer the UDC or make a recommendation on revocation when the LUCB has proven it makes decisions that are outside of the UDC provisions?

As an example, in August of 2015 Memphis Stone and Gravel was granted a 10-year extension on SUP 04-213. The UDC doesn't contain a provision where any extension beyond two years is an option. This past July, the LUCB granted Memphis Stone and Gravel a modified four-year extension for their Rosenberg pit. Again, the UDC doesn't contain a provision where any extension beyond two years is an option. Keep in mind the Rosenberg permit was technically void due to no mining activity for over eight (8) years, yet the LUCB and Shelby County Commission approved the extension, which in and of itself violated Shelby County Code. None of the mining applications prior to the May 2020 Rosenberg application contained an Affidavit as required by the UDC. No tree removal permit was ever secured by Memphis Stone and Gravel for the Rosenberg pit, nor was a tree removal permit secured by Hobson Development for another nearby pit. Performance bonds have not been secured by the City of Memphis or Shelby County as stipulated in the conditions of each special use permit and Shelby County Code. So we have application issues, no oversight of special use permits, and multiple SUP and Shelby County code violations, none of which have been addressed by the City or County. To top it all off, there have been several, recent violations of TDEC rules and regulations at Memphis Stone and Gravel pits Rosenberg and Crenshaw.

Further, I find it very interesting to see where Memphis Stone and Gravel's attorney, Homer Branan, is listed as being on the UDC Review Committee. In the attached ZTA 16-001 Staff Report from September

2016, page 29 clearly shows Mr. Branan listed as "Scrappy Branan" in the CC field, but he's also named elsewhere. Additionally, Memphis Stone and Gravel's spokesperson at the February 2019 County Commission meeting is none other than Michael Fahy, who is also listed as a member of the UDC Review Committee and owns Prime Development. How is it possible for non-City/County employees to be members of the UDC Review Committee or Technical Review Committee when section 9.1.8 of the UDC clearly states, "The Technical Review Committee is comprised of City and County agencies".

So we've had representatives of organizations, who've submitted applications to the LUCB, the City of Memphis, and Shelby County for themselves or on behalf of others, also have their hands in reviewing/modifying Memphis City and Shelby County Code? Clearly this is in direct violation of Memphis City and Shelby County Code. Does anyone have any ethical concerns here?

In previous e-mails with Mr. Hollon, he stated he's shared my request for an official response with the appropriate staff from the County Mayor's Office, yet there's been no response. I understand the City of Memphis has spent \$85 million dollars with Memphis Stone and Gravel's parent company, Lehman-Roberts, over the last eleven years on paving. When I presented my MSG Rosenberg appeal to the Shelby County Commission back on September 28, 2020, it was interesting to see the Chairman of Lehman-Roberts, Pat Nelson, sitting in the back by himself.

Pages four through twenty-three follow this letter, which contain the entire e-mail thread as previously mentioned.

Sincerely,

W. Britton White

cc. John Zeanah

Robert Rolwing

Marlinee Iverson

Steve Shular

Frankie Dakin

Matthew Hollon

Commissioner Amber Mills

Email thread as referenced in the above letter.

From: Rolwing, Robert [Robert.Rolwing@shelbycountytn.gov]

Sent: Monday, May 04, 2020 7:33 AM To: Britton White; Iverson, Marlinee

Cc: Mills, Amber; Zeanah, John; Josh. Whitehead; Office of the Mayor; wjones17157@aol.com;

pmatthews@bhammlaw.com

Subject: RE: Memphis Stone and Gravel and OPD

Mr White:

Please excuse the delay in response. Recall that the county, city, and court, shut-down orders came just a day or two after our meeting in March. The County has continued working, however, and I have been extraordinarily occupied since then as you may imagine.

Mr Whitehead kindly responded to your e-mail when I could not get to it, and I understood his e-mail as Shelby County's response to you. Code Enforcement and the Office of Planning and Development (OPD) are part of the same local government division, and I am attorney for both offices. I can expand upon Mr Whitehead's response and Mr Saliba's analysis, but have nothing of real consequence to add to it.

The keys to the questions you raise are the conditions that were added to the special use permits by the County Commission.

Each of the relevant conditions discussed below appeared first in the OPD Staff Reports for each permit, which you have read. Staff Reports are recommendations only — first to the Land Use Control Board and then to the County Commission. The conditions on land use permits are set by the Land Use Control Board and ultimately by the County Commission, which has the final word. When a party applies for a special use permit such as a gravel mine:

"The governing bodies [here, the County Commission since these gravel mines are in rural Shelby County] shall approve or disapprove the special use permit or planned development and shall set forth any conditions imposed."

--From the Memphis and Shelby County Unified Development Code (UDC), i.e., the current zoning code, sec 9.6.8(B), see excerpt attached. Again, at sec 9.6.10:

"In granting approval of a special use permit or planned development, the governing bodies [County Commission] may impose reasonable conditions which serve to assure that the required findings [of sec 9.6.9] are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation; open spaces; landscaping or buffer provision; limits on scale, intensity, or hours of operation; and other reasonable restrictions."

See also the pre-2011 Zoning Code which governs pre-2011 special use permits, excerpt attached, secs 8(E)(1)(Land Use Control Board recommends to the County Commission), (5)(OPD forwards the LUCB recommendation to the County Commission), (6) and (7)(County Commission approves, disapproves, or

approves with conditions, the application); also the 2011-current Unified Development Code which governs post-2011 special use permits, excerpt attached, secs. 9.6.5(C)(authorizing OPD to produce staff reports), 9.6.8(A)(OPD forwards LUCB recommendation to the County Commission), (B)(quoted above), 9.6.10(quoted above); 9.6.14(B)(quoted by Mr Saliba in Mr Whitehead's April 24 e-mail — SUP void if unused after two years "unless conditioned otherwise"). Links to the full codes appear below.

The County Commission's conditions for the three Memphis Stone and Gravel (MSG) special use permits at issue are set out in the resolutions that approved the permits. A copy of each County Commission resolution is attached.

Specifically, the relevant conditions for the subjects you raised are as follows:

- Bradley Estate, SUP 06-212 CO, 8339 Deadfall Road:
- -- Expiration: In Condition 22 of the resolution, attached to this e-mail, the County Commission directed that, "This special use permit shall be valid for ten years from the date when state approval is received." As Mr Saliba noted, the County Commission approved the permit on August 14, 2006; the State approved MSG for mining the location on April 13, 2007.
- -- Reclamation: Condition 20 directed that: "A copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan." As Mr Saliba noted, mining was completed here November 21, 2016 (less than ten years after State approval, as just noted); and the State-approved reclamation was completed August 29, 2018, in lieu of a locally-reviewed plan.
- Rosenburg site, SUP 09-217 CO, 10577 Millington-Arlington Road, see resolution attached:
- Expiration: See Condition 18, identical to Bradley condition 22 above.
 County Commission approval January 11, 2010.
 State approval August 10, 2010.
- -- Reclamation: See Condition 17, identical to the Bradley condition. This site is still in operation.
- Crenshaw site, SUP 13-206 CO, also having the 10577 Millington-Arlington Road address, see resolution attached:
- Expiration: See Condition 17, identical to the previous cases.
 County Commission approval: May 6, 2013.
 State approval: January 31, 2014.
- -- Reclamation: See Condition 16, identical to the previous cases. This site is also still in operation.

These conditions are the reasons that the permits did not expire, even though the land went un-mined for more than two years after County Commission approval. See UDC sec 9.6.14(B), and former Zoning

Code sec 8(D)(1)(a) (the two-year provision). These special use permits did not become void after two years of non-use because the County Commission had specified differently in the conditions placed on each permit — each permit was good for ten years, starting from the date of State approval. State approval for each site came about eight months after County approval, and eight months of course is well within the two-year period. These permits were not void after two years of non-use because, in the words of the UDC, they were "conditioned otherwise." UDC 9.6.14(B).

The conditions also explain why the State-approved reclamation plan for Rosenburg was acceptable. The County Commission determined in these conditions that MSG could re-countour the land as described in the other conditions and the ordinances or, "in lieu of" that, that OPD could defer to the Tennessee Department of Environment and Conservation on the subject. TDEC is very strict, some might say notoriously strict, about compliance with environmental regulations and safety. Essentially, the County Commission determined that if the reclamation were approved by TDEC, then that plan is sure to be environmentally sound. It is in any event beyond the jurisdiction and expertise of OPD to challenge TDEC's approval of the reclamation plan. We may not agree with these conditions, but the County Commission at the time approved them, and they therefore govern the permits.

You are correct that MSG did not file the State-approved Rosenburg reclamation plan with OPD, as called for in Rosenburg Condition 17. See attached resolution. Thank you for bringing that to our attention. OPD has directed MSG to produce that documentation as a result of your complaint.

You specified in our meeting last month that you were not complaining that MSG did not complete a 1500-foot fence as required in Rosenburg Condition 27, but that the fence does not cover the perimeter. As you saw in his April 24 e-mail, Mr Whitehead contacted MSG's president, who is looking into the matter and, I understand, is willing to complete perimeter fencing. OPD also contacted MSG about the tree cover of Condition 8 at the Rosenburg site, and MSG is willing to do what is necessary to comply.

Robert B. Rolwing Assistant Shelby County Attorney 160 N. Main Street, Suite 950 Memphis, Tennessee 38103 Tele. (901) 222-2100

UNIFIED DEVELOPMENT CODE: https://shelbycountytn.gov/DocumentCenter/View/35104/ZTA-19-1-complete-document-6---for-printing

FORMER ZONING CODE: https://shelbycountytn.gov/DocumentCenter/View/31048/1981-Zoning-Code-as-of-2007?bidld=

MORE ON THE UDC: https://shelbycountytn.gov/924/Zoning-Subdivision

HISTORICAL ZONING CODES: https://shelbycountytn.gov/3241/Historic-Zoning-Codes-and-Maps

From: Britton White [bwhite@technologyprocesses.com]

Sent: Wednesday, April 29, 2020 11:29 AM To: Rolwing, Robert; Iverson, Marlinee Cc: Mills, Amber; Zeanah, John; Josh.Whitehead; Office of the Mayor; wjones17157@aol.com; pmatthews@bhammlaw.com
Subject: FW: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Mr. Rolwing,

Per Commissioner Mills two weeks ago, I was supposed to have received an e-mail response from you this past Wednesday (April 22, 2020) regarding all the apparent MSG violations documented and discussed during our March 12th meeting. That has not happened. Per Josh Whitehead's e-mail from this past Friday, you were preparing a response, but again, there's been no response from you or Code Enforcement, only from Mr. Whitehead. Code Enforcement is responsible for enforcing Special Use Permits under the Unified Development Code. Mr. Whitehead is not responsible for enforcing Special Use Permits thus his below responses in lieu of yours are not applicable.

To be clear, below are the items to be addressed.

- 1) The Rosenberg and Crenshaw Special Use Permits are void based on Section 9.6.14C of the UDC, "Excluding planned developments, if a special use permit has not been in use for any consecutive 24-month period, the permit shall be void." Article 12 Definitions 12.1 D. states, The word "shall" is mandatory. The satellite images provided in my original package, and attached herein, confirm there was a period of more than 24 months of NO activity at the Rosenberg and Crenshaw sites.
- 2) For the Bradley property, which has been completed for almost two years now, no major modification was submitted by MSG to leave behind an impoundment, which is in violation of not only the Special Use Permit, but section 9.6.12B. (Major Modification) of the UDC as well. Chip Saliba stated during our March 12th meeting that MSG requesting impoundments be left behind would require a Major Modification.
- 3) MSG's intent to leave behind impoundments for both the Rosenberg and Crenshaw sites is clear based on documentation submitted by MSG to TDEC requesting major modifications to the NPDES permit. Nowhere in the Special Use Permit or the UDC does it state bodies of water or "impoundments" may be left behind. Per the UDC, MSG is required to submit Major Modification requests, which they have not.
- 4) All three Special Use Permits (SUP) in question state excavations shall be filled and land restored, regraded, and re-sloped; leaving bodies of water behind is not permitted. More importantly, the SUP requires "the applicant for the special permit shall submit to the Building Official a performance bond in the amount required by the Building Official per acre for each acre proposed to be used for sand, gravel, or other extraction operations to insure the land shall be restored, regraded, and re-sloped as provided above when such mining or extraction operations cease." Proof of these submissions has not been provided. Burke Renner and others in Code Enforcement have not located any documentation on their end related to this requirement being satisfied.
- 5) Sections 6.1.1 and 6.1.2 of the UDC address Tree Removal, applicability and Exemptions. For the Rosenberg and Crenshaw sites specifically, a letter dated June 28, 2013 from Alan Parks of MSG to Bruce Ragon at the Division of Water Pollution Control Mining Section, Mr. Parks states the following, "Dear Bruce, As the landowner, Memphis Stone and Gravel Company requests no trees be replanted and

impoundment as part of the final reclamation plan of the subject property. Attached for your review are the survey descriptions of the three properties affected by Surface Mining Permit OM-79375-7." For reference, this letter is attached (MSG Rosenberg and Crenshaw Tree and Impoundment Waiver 6.28.13). Tree Removal was never addressed for the Bradley site either. This being the case, all three MSG sites (Rosenberg, Crenshaw, and Bradley) are in violation of Sections 6.1.1 and 6.1.2 of the UDC.

Per the Unified Development Code Article 11. Enforcement Section 11.1 IN GENERAL, third sentence, "In addition to the party violating this development code, any other person who may have knowingly assisted in the commission of any such violation shall be guilty of a separate offense."

Ms. Iverson,

I respectfully request your help with this matter, and ask for clarification related to the many discrepancies and enforcement of these Special Use Permits and the Shelby County Unified Development Code. I am happy to provide the original package delivered to Mr. Rolwing back on January 27, 2020, so please let me know if you would like me to FedEx it to your office. I am also happy to speak via phone at your convenience. Thank you in advance for your assistance with this.

Sincerely,

W. Britton White

From: Whitehead, Josh [Josh.Whitehead@memphistn.gov] Sent: Monday, April 27, 2020 7:37 AM

To: Britton White

Cc: Saliba, Norman; Amber.Mills@shelbycountytn.gov; Robert.Rolwing@shelbycountytn.gov; Zeanah, John; marlinee.iverson@shelbycountytn.gov; officeofthemayor@shelbycountyty.gov; rnbwilliams@earthlink.net; Trip Jones; chris.simmons@shelbycountytn.gov; alan.parks@msgravel.com Subject: Re: Memphis Stone and Gravel and OPD

Mr. White: this does not change our analysis,

Thank you

Josh Whitehead

On Apr 27, 2020, at 7:34 AM, Britton White

bwhite@technologyprocesses.com wrote:

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Whitehead,

TDEC sent a letter to MSG, dated April 15, 2019, and stated that the Division of Water Resources terminated the NPDES permit for the Bradley property effective April 15, 2019. Why did OPD wait a year before it asked Memphis Stone and Gravel (MSG) for a reclamation plan?

All three Special Use Permits (SUP) in question state excavations shall be filled and land restored, regraded, and re-sloped; leaving bodies of water behind is not permitted. More importantly, the SUP requires "the applicant for the special permit shall submit to the Building Official a performance bond in the amount required by the Building Official per acre for each acre proposed to be used for sand, gravel, or other extraction operations to insure the land shall be restored, regraded, and re-sloped as provided above when such mining or extraction operations cease."

Apparently, no person in the Code Enforcement Office, including Burke Renner, knew if this condition had been fulfilled.

Although your comment on the Period of Validity, Section 9.6.14B referenced "unless conditioned otherwise", the very next section (9.6.14C) states "Excluding planned developments, if a special use permit has not been in use for any consecutive 24-month period, the permit shall be VOID".

Since there is no "unless conditioned otherwise" exclusion, the Rosenberg and Crenshaw SUPs are VOID, because the satellite images provided in my package, and attached herein, confirm there was a period of more than 24 months of NO activity at the Rosenberg and Crenshaw sites. Therefore, I respectfully encourage you to enforce the applicable law and regulations, on behalf of the citizens of Shelby County, and I look forward to your response.

W. Britton White

From: Whitehead, Josh [Josh.Whitehead@memphistn.gov]

Sent: Friday, April 24, 2020 10:57 AM To: Britton White; Saliba, Norman

Cc: Amber.Mills@shelbycountytn.gov; rnbwilliams@earthlink.net; Trip Jones;

chris.simmons@shelbycountytn.gov; Robert.Rolwing@shelbycountytn.gov; Alan Parks; Zeanah, John

Subject: Re: Memphis Stone and Gravel and OPD

Mr. White:

I believe Mr. Rolwing is also preparing a response but I wanted to share with you the findings of my colleague, Chip Saliba, who has been in contact with Cliff Caudle with the Memphis Environmental Field Office of the Tennessee Department of Environment and Conservation. Below is his summary on each of the Special Use Permits you have cited.

Dec. 10, 2020

beginning of Chip's findings with regard to alleged expirations

Bradley Estate - (OPD Case # SUP 06-212 CO) 8339 Deadfall Road

County Commission Approval: 08/14/06

State Approval: 04/13/07

Mining Activity Completed on 11/21/16 Reclamation: Completed on 08/29/18

Comments: Condition #22 of the approved County Commission Resolution states the special use permit shall be valid for ten years from the date when State approval is received. Mining activity was complete on 11/21/16. Condition #20 states that a copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan. Mr. Caudle states that the reclamation is complete and he will send OPD the reclamation plan.

Rosenburg Addition - (OPD Case #SUP 09-217 CO) 10577 Millington-Arlington Road)

County Commission Approval: 01/11/10

State Approval: 08/10/10 Mining Activity: Still Continuing

Reclamation Plan: Not applicable - Still Mining

Comments: Condition #18 of the approved County Commission Resolution states that the special use permit shall be valid for ten years from the date when State approval is received. Based on this, the special permit will expire on 08/10/20 unless a time extension is applied for. Condition #17 states that a copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan.

Crenshaw Addition abutting Rosenburg Addition- (OPD Case #SUP 13-206 CO) 10577 Millington-Arlington Road)

County Commission Approval: 05/06/13

State Approval: 01/31/14 Mining Activity: Still Continuing

Reclamation Plan: Not Applicable - Still Mining

Comments: Condition #17 of the approved County Commission Resolution states that the special use permit shall be valid for ten years from the date when State approval is received. Based on this, the special use permit will expire on 01/31/24 unless a time extension is applied for. Condition #16 states that a copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan.

SUMMARY

Section 9.6.14B of the Memphis and Shelby County Unified Development Code states the following: "Excluding planned developments, special use permits shall be implemented within 24 months of final approval or such permits shall be void, unless conditioned otherwise." The above-referenced special use permits were all "conditioned otherwise" to allow for ten-year mining activity to begin effective with State approval. Further, each special use permit is conditioned to include that OPD may accept the State-approved reclamation plan to satisfy the reclamation requirement.

Dec. 10, 2020

end of Chip's findings

As for alleged landscaping and fencing violations, I have contacted Alan Parks with Memphis Stone and Gravel (copied here) and he has stated they will ameliorate any violations of those conditions of approval. I will ask that Chris Simmons send an inspector to the site to ensure this work has been performed.

Therefore, if and once the improvements cited immediately above are completed, there will be no citations pursued in Environmental Court on these sites.

Thank you,

Josh Whitehead Administrator Memphis and Shelby County Office of Planning and Development

From: Britton White <bwhite@technologyprocesses.com

Sent: Friday, March 27, 2020 11:40 AM

To: Saliba, Norman < Norman. Saliba@memphistn.gov

Cc: Whitehead, Josh <Josh.Whitehead@memphistn.gov; Amber.Mills@shelbycountytn.gov <Amber.Mills@shelbycountytn.gov; rose.hill@shelbycountytn.gov <rose.hill@shelbycountytn.gov; rnbwilliams@earthlink.net <rnbwilliams@earthlink.net; Trip Jones <wjones17157@aol.com; chris.simmons@shelbycountytn.gov <chris.simmons@shelbycountytn.gov; Robert.Rolwing@shelbycountytn.gov

Subject: RE: Memphis Stone and Gravel and OPD

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mr. Saliba and Mr. Rolwing,

Circling back on the below email since I never saw a reply. I understand that this is a challenging time for many, so please know that I'm aware response times may be delayed especially given OPD's office move.

Has their been any conversation on how these apparent violations by MSG will be presented to environmental court? Any discussion on how OPD, the LUCB, and The Shelby County Commission might address the overall lack of enforcement of these Special Use Permits (SUPs)/UDC/2007 Code of Ordinances, how SUP applications will be managed, how SUPs will be reviewed, enforced, performance bonds received, etc.?

I see that OPD business is continuing remotely, so I hope these issues are being worked through as well.

Happy to have a conference call to discuss if you'd like.

Sincerely,

Britton

Sent from my Verizon Motorola Smartphone
On Mar 18, 2020 13:39, Britton White
bwhite@technologyprocesses.com wrote: Thank you Mr. Saliba.

Based on Chapter 16-32 section 4 (application procedure) in the 2007 Code of Ordinances, and in section 9.6.12 of the Unified Development Code, it seems clear that time extensions are required.

Am I missing something?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone
On Mar 18, 2020 13:14, "Saliba, Norman" < Norman. Saliba@memphistn.gov wrote:
Mr. White:

I have looked at the files for both Rosenberg and Crenshaw and find no time extensions have been previously asked for, but do not take this response at this time as an official ruling that the time extensions were required. I am currently investigating why such extensions may have not been applied for and if any are needed. You will receive a response to this in the next seven to ten days once we have completed our investigation.

Chip Saliba Deputy Administrator Development Services OPD

----Original Message-----

From: Britton White [mailto:bwhite@technologyprocesses.com]

Sent: Wednesday, March 18, 2020 12:53 PM

To: Robert.Rolwing@shelbycountytn.gov; rose.hill@shelbycountytn.gov;

chris.simmons@shelbycountytn.gov; Saliba, Norman < Norman.Saliba@memphistn.gov

Cc: Mills, Amber < Amber. Mills@shelbycountytn.gov; rnbwilliams@earthlink.net;

wjones17157@aol.com

Subject: RE: Memphis Stone and Gravel and OPD

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mr. Rolwing,

I was able to make it out to the Rosenberg site this past weekend, and would like to provide an update to the group here on aerial shots created from a drone video that was taken. Since the last satellite photos I'm able to gather are back from March 2018 (4th attached), I thought it would be beneficial to get updated pictures. This site (Rosenberg near Lubov Rd and Osborntown) is the one where the length of the fence is in question especially since it stops right where Lubov Rd dead-ends, which allows easy access to the site. The SUP for this site (09-217) also called for evergreens to be planted where the tree-line was either thin or non-existent. This was never done, and is in addition to the other apparent violations we've already reviewed.

From the picture labeled Rosenberg 4, you can see a black truck in the top-left corner, which is where Lubov Rd dead-ends. If you zoom in just a bit, you can clearly see the fence in question, and where it ends.

Mr. Saliba, have you had an opportunity to look into whether or not MSG requested three time extensions for the Rosenberg SUP, and two time extensions for the Crenshaw SUP?

Thanks,

Britton

From: Britton White

Sent: Friday, March 13, 2020 5:49 PM To: Robert.Rolwing@shelbycountytn.gov Cc: Mills, Amber; Saliba, Norman

Subject: RE: Memphis Stone and Gravel and OPD

Thank you Mr. Rolwing. I can meet them Tuesday as well.

Britton

Sent from my Verizon Motorola Smartphone On Mar 13, 2020 15:24, "Rolwing, Robert" <Robert.Rolwing@shelbycountytn.gov wrote:

I will see if Rose is in today, and if so remind her to respond to your e-mail. I would not count on them being able to come out Monday, unless you hear otherwise from Rose, as that is her department's day in Environmental Court. Robert.

From: Britton White <bwhite@technologyprocesses.com

Sent: Friday, March 13, 2020 3:11 PM

To: Rolwing, Robert < Robert. Rolwing@shelbycountytn.gov

Cc: Saliba, Norman <norman.saliba@memphistn.gov; Mills, Amber <Amber.Mills@shelbycountytn.gov

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

I am requesting a moratorium on mining at Rosenberg and Crenshaw, which was included in the original letter to Ms. Rose at Code Enforcement in late January.

This is due to the fact that both permits are void per the Code of Ordinances.

Please let me know about Code Enforcement being able to meet me at the Rosenberg site this Monday as I've not received a response to my offer from this morning.

Thank you Mr. Rolwing.

Britton

Sent from my Verizon Motorola Smartphone On Mar 13, 2020 15:04, "Rolwing, Robert" <Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov wrote: Mr White: Thank you again as well for gathering the material you did and presenting it to us.

For clarification, when you speak of moratorium, are you speaking of halting production:

- a) at the Rosenberg and Crenshaw properties only;
- b) at all Memphis Stone & Gravel locations in Shelby County; or
- c) all future gravel extraction in Shelby County.

I don't believe any of them changes the answer I gave yesterday, but I do want to make certain that we are speaking about the same thing. Thank you,

Robert B. Rolwing Assistant Shelby County Attorney Tele. (901) 222-2100

From: Britton White <a href="https://www.energes.com/mailto:bwhite@technologyprocesses.com/mailto:bwhite@tec

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov; Hill, Rose

<Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov ; Simmons, Chris</pre>

<Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov</p>

Cc: jdmarks1@comcast.net<mailto:jdmarks1@comcast.net; Saliba, Norman

<norman.saliba@memphistn.gov<mailto:norman.saliba@memphistn.gov; Mills, Amber

<Amber.Mills@shelbycountytn.gov<mailto:Amber.Mills@shelbycountytn.gov; Trip Jones</p>
<wjones17157@aol.com</p>
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

First, I greatly appreciate you all taking the time to walk through all the details and documents vesterday.

Ms. Hill and Mr. Simmons, I would be happy to meet you this Monday at the Rosenberg property to review the site and take pictures. What time Monday is best for you?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone On Mar 5, 2020 13:50, Britton White

Given the number of apparent violations while operating under voided permits, I would say this falls outside of any normal procedures, so I would ask that this case be treated differently than other cases.

Section 9.6.14 of the UDC, and Chapter 16-32-4 (Application procedure) Section A of the 2007 Code of Ordinances clearly state permits shall be implemented within 24 months of final approval or such permits shall be void.

Maybe the challenge here is no one has ever brought a case like this before the County/Environmental Court, and there's concern over the potential fallout?

Have you had a chance to review the packet in its entirety?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone On Mar 5, 2020 12:35, "Rolwing, Robert"
<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov wrote:
Mr White: Rose Hill, Inspector Chris Simmons, and I, are available on Thursday, March 12, 9:30 - 10:15
a.m., for a meeting regarding Memphis Stone & Gravel, at the Code Enforcement Office, 6465 Mullins
Station Road at Shelby Farms. Joining us for OPD will be Chip Saliba, Deputy Administrator of OPD for
Land Use Controls, who will be sitting in lieu of Messrs. Zeanah and Whitehead who have schedule
conflicts, and are therefore unable to attend.

Regarding a moratorium, Code Enforcement's normal procedure is to cite an offender to Environmental Court, where the District Attorney and judge both attempt to bring the offender into compliance. I can tell you now that I do not expect that the D.A. would request an injunction to stop an existing business from operating.

Robert B. Rolwing Assistant Shelby County Attorney Tele. (901) 222-2100

From: Britton White bwhite@technologyprocesses.com Sent: Thursday, March 5, 2020 11:00 AM

To: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov; Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov

Cc: jdmarks1@comcast.net<mailto:jdmarks1@comcast.net; Simmons, Chris

<Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov; Trip Jones</p>

<wjones17157@aol.com<mailto:wjones17157@aol.com

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Good morning to everyone. Checking to see if the below email was received yesterday.

Also, I have been in touch with Commissioner Mills, and asked if she was able to make our meeting next Thursday morning, which she said yes.

So that I can give her a firm time, does 9:30 a.m. work?

Thank you,

Britton

Ms. Hill, since it appears MSG is operating the Crenshaw and Rosenburg pits under voided permits, which is why I've asked for a moratorium on mining activity for those two properties, are you able to make that call on your own as Code Enforcement, or no?

Again, given all the documentation provided, there are serious permit, UDC, and 2007 Code of Ordinances violations that I believe warrant the moratorium.

If Code Enforcement is unable to make the call on the moratorium, I would suggest the case be moved up in Environmental Court since destruction of Shelby County land is apparent.

As for next Thursday's meeting, I would appreciate Code Enforcement's presence, Mr. Rolwing, and Josh Whitehead and John Zeanah from OPD.

Please advise if 0930 works. Likely need two hours set aside to talk through everything.

Thank you all for your help here.

Britton

Sent from my Verizon Motorola Smartphone On Mar 3, 2020 17:27, "Rolwing, Robert" <Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov wrote:

Mr White,

Code Enf is looking at the problem and we will know more after they have checked it out fully.

FYI I have attached the most recent Code Enforcement docket in Environmental Court for context -- 33 cases yesterday. They will have at least that many cases next Monday, and again the Monday after that, etc. Addressing your complaint is simply a matter of getting to it.

Thursday morning the 12th is good with me. I have not yet heard back from the other county employees, although not sure my presence is needed anyway. We will contact you again tomorrow or one day this week, but I wanted to respond to your e-mail today.

Robert B. Rolwing

Assistant Shelby County Attorney

Tele. (901) 222-2100

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>

Cc: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov; Simmons, Chris

<Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov; Trip Jones</p>

<wjones17157@aol.com<mailto:wjones17157@aol.com

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thank you Mr. Rolwing.

Code Enforcement mentioned they were waiting on you for guidance before moving forward with anything.

I have to be very frank here. I feel like I'm getting the run-around since there are still no answers regarding where this complaint stands.

Am I missing something? I believe I've provided plenty of details for some sort of initial response. Have you reviewed the packet? If so, do you have any comments?

S

And are you all able to meet next Thursday morning at 9:30?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 2, 2020 16:18, "Rolwing, Robert"

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov wrote:

Mr White:

If there are violations, MSG will most likely be cited to Environmental Court.

OPD tells me that they not been in communication with MSG.

Robert B. Rolwing

Assistant Shelby County Attorney

From: Britton White bwhite@technologyprocesses.com Sent: Monday, March 2, 2020 3:18 PM

To: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov

Cc: Simmons, Chris <Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov; Rolwing, Robert <Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov; Trip Jones <wjones17157@aol.com<mailto:wjones17157@aol.com

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thank you Ms. Hill.

I guess the one question I have for the group here is where things stand regarding my request for a 30 day moratorium on mining at the Roseburg and Crenshaw sites.

Based on all the evidence gathered, it appears MSG shouldn't be mining those two sites due to voided permits. And that's just the beginning.

Has OPD been in touch with Memphis Stone and Gravel?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 2, 2020 14:48, "Hill, Rose" <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov wrote:

Forwarding to Chris Simmons as senior inspector, he will assign an inspector to check or he himself with check, thanks

Chris-Please respond, thanks

[cid:image001.png@01D5F0A1.94DE1180]

Rose Hill

Sign, Zone and Special Events Manager

Memphis and Shelby County

Office of Construction Code Enforcement

6465 Mullins Station Road

Memphis, Tennessee 38135

901-222-8374

From: Rolwing, Robert

Sent: Monday, March 02, 2020 2:19 PM

To: 'Britton White' Cc: Hill, Rose; Trip Jones

Subject: RE: Memphis Stone and Gravel and OPD

I will speak with Rose Hill about next Thursday.

OPD and Code Enforcement are both aware of your complaint. No I have had no communication with Memphis Stone & Gravel since their last application.

RBR.

From: Britton White

Sewhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com

Sent: Monday, March 2, 2020 1:56 PM

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov

Cc: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov; Trip Jones

<wjones17157@aol.com<mailto:wjones17157@aol.com

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thanks Mr. Rolwing. How about 0930 next Thursday?

Subject: RE: Memphis Stone and Gravel and OPD

Also, have you spoken with OPD about this? Is MSG aware, or are you holding back all communication with OPD and/or MSG on the documentation?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 2, 2020 13:45, "Rolwing, Robert"

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov wrote:

Mr White:

Thank you for your e-mail. I understand that Code Enforcement has recently been at the Arlington gravel pit, or will soon be there. Unfortunately I cannot meet this week as I am covered up. Late next week would be much better for me.

Robert B. Rolwing

Assistant Shelby County Attorney

Tele. (901) 222-2100

From: Britton White
 bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com
 Sent: Monday, March 2, 2020 12:41 PM

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>
Cc: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov</p>
; Trip Jones

<wjones17157@aol.com<mailto:wjones17157@aol.com</p>

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Hi Mr. Rolwing,

To follow up on my voice message from this morning, I would appreciate a meeting this Thursday or Friday morning with you, Ms. Hill, and Mr. Simmons to discuss where things stand related to the documentation provided a month ago on Memphis Stone and Gravel where they appear to be operating without a valid permit at two current mining sites.

There are additional, potential violations, which are also clearly outlined and backed by the same documentation in the packet submitted to you and Ms. Hill back in late January.

I understand from Ms. Hill that you have asked if Code Enforcement has been on site looking for any current violations. Based on my research, it seems the main issues lie more so with a lack of compliance with the 2007 Code of Ordinances, the Shelby County UDC, and the Special Use Permit requirements. Any potential violations found at any site would be in addition to the documented findings already provided.

During my initial meeting with Code Enforcement on Friday January 24, 2020, additional concerns and questions were raised by Mr. Burk Renner regarding a requirement that MSG submit a performance bond in the amount of \$3,500 per acre to the building official prior to the commencement of sand, gravel, or other extraction operations. If I recall correctly, he was unsure if that ever took place due to a variety of reasons.

Given what Mr. Renner raised, it might be good to walk through the special use permit requirements for each permit currently in question to determine if all requirements were met.

Please let me know if/when we might be able to meet this week.

Sincerely,

Britton

Sent from my Verizon Motorola Smartphone

On Jan 27, 2020 09:27, "Rolwing, Robert"

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</pre> wrote:

Good morning, this will confirm that Rose Hill and I received your packets Friday. We will review it and be in contact with you.

Robert B. Rolwing

Assistant Shelby County Attorney

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com

Sent: Monday, January 13, 2020 1:38 PM

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

It's just an audio conference, no video. Thanks Mr. Rolwing.

Britton

Sent from my Verizon Motorola Smartphone

On Jan 13, 2020 13:12, "Rolwing, Robert"

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>
wrote:

Mr White: We have not used webex before. Is this a video conference? Pls be advised that we have no video hook-up capabilities. RBR.

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com

Sent: Saturday, January 11, 2020 9:51 AM

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>

Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thank you Mr. Rolwing. Would Monday at 1400 work? My cell is 901-233-2536.

If we need to adjust for any reason, no worries.

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Jan 10, 2020 16:50, "Rolwing, Robert"

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>
wrote:

Mr White: Yes I will be happy to speak with you about Stone & Gravel. I should be available all day Monday; Tuesday after about 10; Wednesday; and Thursday afternoon. Or send me your number and let me know when a good time to speak with you would be.

Robert B. Rolwing

Assistant Shelby County Attorney

160 N. Main Street, Suite 950

Memphis, Tennessee 38103

Tele. (901) 222-2100 DIRECT: 222-2136

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com

Sent: Friday, January 10, 2020 8:30 AM

To: Rolwing, Robert

<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov</p>

Cc: Trip Jones <wjones17157@aol.com<mailto:wjones17157@aol.com

Subject: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Mr. Rolwing,

My name is Britton White, and I live in the Rosemark community. If you have 15 minutes in the next week or so, I'd appreciate the opportunity to run a few questions by you via phone.

From there, Trip Jones and I would like to schedule a meeting with you, Josh Whitehead, and John Zeanah in the next few weeks, please.

Thank you in advance for your time.

Sincerely,

Britton



Fri 12/4/2020 3;27 AM

William 'Trip' Jones III <wjones17157@aol.com>

Input for OPD Staff Report ZTA 20-1

To Whitehead, Josh

Cc Penzes, Jeffrey; amber mills@shelbycountytn.gov; bwhite@technologyprocesses.com; Isanfordattorney@outlook.com; pmatthews@bhammlaw.com; molhampton@agl.com

f) If there are problems with how this message is displayed, click here to view it in a web browser.

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Josh Whitehead:

First, thank you for the additional time for input on these proposed UDC changes, per your email below. Unfortunately, with the holidays, I am still last minute meeting the Dec 4 –8 am deadline. Note that I have also copied in Jeffrey Penzes to ensure that my input was received by you or one of your staff prior to the above.

Item 4: 1.9 Consistency with Memphis 3.0, on pages 3,4

Not familiar with Memphis 3.0 as approved on February 14, 2019 and how that ties into the Shelby County General Plan and the Growth Plan. Where can these documents be found and how do they interact with each other? However, as I read it, 1.9C clearly states that the Memphis 3.0 General Plan shall be used to <u>quide</u> land use decisions but not in any way supplant the regulations of this Code (presume that means the UDC).

Item 12: 2.6.4D and 6.5.1 on page 9

I have read with interest the input from Britton White, Ron Williams and others on the proposed changes to the UDC. As you might expect, Item 12 regarding changes to 2.6.4D and 6.5.1 on page 9 regarding performance bonds and TDEC approved reclamation plans in lieu of SUP requirements caught my attention as well. I also note that Item 12 did not make your executive summary so it required a review of the entire 37 page document to find this proposal. I'll just summarize my thoughts on this by saying that several months ago when Memphis Stone and Gravel applied for an extension on the Rosenberg SUP (09-217 CO) I sent in comments to the effect that I was more concerned about "the process" and some provisions not being followed in SUP's and the UDC than I was in MSG being granted the extension in question. As noted then, they have mined in the Arlington area for 4-5 decades.

In my email I believe I mentioned that we should have the UDC match reality and if we are not going to collect performance bonds that should come out of the UDC/SUP requirements and if we aren't going to really enforce the provisions of a SUP for mining/reclamation and accept whatever TDEC says is good, then the UDC should reflect that. So, for that reason I applaud the changes which will make what is really happening match the UDC. I guess one question to consider is how many other areas/ordinances would we be willing to give up local control (when possible) and just go with whatever the state decides? I do note that in 6.5.1.E you propose that "a land reclamation plan approved by TDEC <u>MAY</u> satisfy the requirements of this sub-section" ...not that it absolutely will, leaving, I presume some local wiggle room if the TDEC plan appears to be weak.

Item 64: 9.3.2B and D Neighborhood Meetings

In general this describes how Neighborhood associations are notified of permits etc. being requested and the 1,500 foot rule goes away in place of any association with the same zip code as the subject property. While that would seem to open up the notification process quite a bit, it could still leave some room for overlook. As an example, The Rosemark Civic Club meets at Richland Presbyterian Church which has a Millington 38053 address. Just a mile north up Rosemark Rd. is the Moffatt property which is clearly in Shelby County and played a major part in some of MSG's SUP requests of the past and that property has an Atoka 38004 mailing address. Would suggest you let the Neighborhood associations tell OPD which zip codes they are interested in and would affect their community.

As it relates to D, new wording indicates Community Impact Statements from neighborhood organizations will get better treatment if submitted on time in the Staff report to the LUCB. If not, the option to go directly to the LUCB up until meeting time is still available.

Item 67: 9.6.15 Special Use Permit revocation process

This is a much needed provision and the added wording gives the citizen lead Land Use Control Board a greater role to play.

Item 72: 9.23.2E(1) page 33

It is clear even in this provision that members of the Technical Review Committee (TRC) are members of "various City and County agencies". So I too don't understand how is it that Homer Branon and Michael Fahy have been identified on emails as being part of the TRC? While both are professionals in their own fields they are not members of any government agency that I am aware of. If they are going to have a hand in recommending and reviewing proposed UDC changes, then the various communities should have representatives on the TRC as well or they can review proposed changes along with the rest of us.

tem 74: 11.1 Injunctive Relief

Much needed allowing the Environmental Court to impose fines for violations of all UDC codenot just trees or signs.

Thanks again for the chance to input on these proposed changes.

Trip Jones, President Rosemark Civic Club and Vice President, Historic Archives of Rosemark

December 3, 2020

Greetings,

We would like to thank every one of the 19 non-profits, community groups, and neighborhood associations that joined us in signing our first letter of opposition to certain proposed amendments to the UDC. Your support has been incredibly impactful and we are proud to stand alongside you. Following the postponing of the first reading before the Land Use Control Board, we received the updated staff report. After reviewing it among our staff we feel that although some of our concerns have been adequately addressed, there are still amendments-existing and newly proposed- that are cause for concern.

Concerns regarding the following items in OPD Staff Report on ZTA 20-01

- Item 47: 4.9.2, 4.9.8: Billboards
- Item 53: 7.3.11, 8.2.2D and 8.3.11: Planned developments in Uptown and the Medical and University Districts
- Item 59: 8.4.5D, 8.4.6, 8.4.8K(3), 9.22.10 and 9.22.10C (new section): Variances and similar applications (CLARIFYING LANGUAGE)
- Item 67. 9.6.15 and 9.6.13: Special Use Permit and Planned Development revocation process and bar to re-submit
- Item 73: 10.5.1: Nonconforming lots and tracts

First and foremost is our concern over the necessity of making these changes at all given the global COVID-19 pandemic. Enacting such far-reaching changes to a vital document when there is a limited capacity to hear public input is hasty and the City of Memphis would be better served by waiting until a full public engagement is possible. We oppose amending the UDC during this pandemic as none of the changes proposed are time sensitive and can wait until citizens are able to gather in person and meet to discuss the changes.

In the proposed amendments under Item 47 regarding Sections 4.9.2 and 4.9.8, OPD staff had proposed to name the Interstate Highways on which billboards would be permitted. Our concern is that there are agreements in place that currently prohibit billboards on 385/I-269 a.k.a. Bill Morris Parkway and we wish to ensure that I-269 is not allowed to have billboards due to this change.

Response: The amendment originally proposed to this section of the Code has been dropped.

Dec. 10, 2020

In Item 53 substantial changes are proposed to Sections 7.3.11, 8.2.2D and 8.3.11: Planned developments in Uptown and the Medical and University Districts that we oppose. When taking into consideration the amount of time, community input, and effort put into drafting the overlay districts, especially the Midtown Development Overlay (MDO); we find it inappropriate to amend the Overlay District to this extent during a pandemic without full, un-encumbered public engagement.

Response: This amendment is imperative to the effective administration of the Code; the comments above appear to contradict comments made by the same organization contained in its letters dated October 1, 2020, and November 5, 2020, above.

The current text gives LUCB authority to approve special exception for any deviation from a standard in MDO while the new amendment limits permitted special exceptions to 3 standards while all other deviations from the MDO would be heard by the Board of Adjustment. Among the other changes proposed are changing the public notice requirement radius from 300 feet to adjacent property owners. We believe it is more appropriate for those applications to remain with the Land Use Control Board as it is the planning commission for Memphis Shelby County and that the LUCB should be making decisions within the MDO.

Response: The proposed amendment with regard to Special Exceptions in the Midtown Overlay has been dropped.

Changes have also been proposed in Item 59 referencing Sections 8.4.5D, 8.4.6, 8.4.8K(3), 9.22.10 and 9.22.10C (new section): Variances and similar applications that take into account our earlier feedback. While we have no issues with the intent of this amendment, we would like to add text clarifying that requirements of a Variance & Conditional Use Permit must be met by the application.

Response: Agreed; see revised language in new Section 9.24.11 above.

In Item 67 referring to Sections 9.6.15 and 9.6.13; the changes proposed were meant to address community concerns and recurring problems with developers rescinding and reapplying for permits to avoid community opposition. We recognize and appreciate greatly the attempt to remedy the situation with these amendments. However, the amendments as written seem to apply only to projects where permit applications were denied, not in cases where the application was repeatedly withdrawn before being approved or denied, such as the gas station application at the intersection of Norris and Hernando Roads. We ask that further language be added to keep communities from experiencing this exhausting issue.

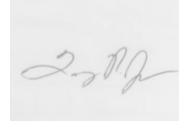
Response: Agreed; see revised language in Sub-Section 9.6.13A above.

We continue to oppose the changes proposed under Item 73: 10.5.1: Nonconforming lots and tracts. Our objections from the original draft of the UDC amendments remain the same. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

We do not support moving up the grandfather date for all lots created by subdivision plat. We understand and support grandfathering in lots where the home has been constructed with approval by DPD. However, we do not support the addition of the November 12,2020 date to grandfather in lots created by plan. We believe this date is arbitrary and could have a substantial impact on development as the exact number of parcels this would grandfather in are unknown.

Response: This amendment has been dropped.

Respectfully Submitted,



Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.

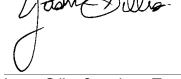
Charia Jackson, Frayser CDC; Board President, BLDG Memphis



le he Mudos

Jennifer Amido, President Crosstown Neighborhood Association

Staff Report Dec. 10, 2020 ZTA 20-1



Justin Gillis, Speedway Terrace Historic District



Anna Joy Tamayo, President, Crosstown CDC



Ms. Quincy Morris, President, Klondike Smokey City, CDC

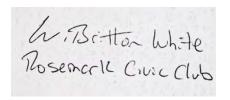


HJauser Fulkerson

Holly Jansen Fulkerson Executive Director Memphis Heritage, Inc.

Cassandras Pixon

Cassandra Dixon; Representative for Hernando Community Neighbors, Prospect Park Neighborhood Association, 60.1 Neighborhood Association and Longview Heights Neighborhood Association



Britton White, Rosemark Civic Club



Fri 12/4/2020 10:37 AM

Paul Matthews <pmatthews@bhammlaw.com>

RE: Input for OPD Staff Report ZTA 20-1

To Whitehead, Josh

Cc Penzes, Jeffrey; Samber, mills@shelbycountytn.gov; SbWhite@technologyprocesses.com; Sanfordattorney@outlook.com; molhampton@aol.com; William Trip' Jones III.

10 You replied to this message on 12/4/2020 10:38 AM.

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Mr. Whitehead:

I read with interest Trip Jones' email to you as set forth below. I confess that I have not studied the proposed UDC changes as Trip has, but based on his statements, I concur with just about all of his recommendations and comments.

However, I am stronger in my disapproval of the notion that "a land reclamation plan approved by TDEC <u>MAY</u> satisfy the requirements of this sub-section," as it could operate to deny local citizens the opportunity to receive notice of and give input concerning the reclamation plan. I suggest that allowing a TDEC-approved reclamation plan to satisfy the requirements in question should only be permitted on a case-by-case basis <u>AFTER</u> notice to and an opportunity for comment by the community to staff and the LUCB (or County Commission), and with the decision to allow it or not being made not by staff but by the board (or County Commission) after hearing from the community. As Trip noted, some mining operations in Shelby County have lasted for several decades. Particularly in that circumstance, communities change, community expectations and standards change, and engineering feasibility changes. Moreover, residents at the time when the project commenced may well have died or moved away, so that there is little if any knowledge or awareness in the community of the initial application and any conditions or requirements imposed.

In addition, the provisions of Item 12 are important and deserve special attention. Accordingly, I request that you supplement your executive summary so that those provisions are more widely acknowledged and understood.

Thank you for your consideration.

Best wishes.



Paul A. Matthews

Member
5400 Poplar Avenue, Suite 100, Memphis, TN 38119-3660.
Phone (901) 683-3526 • Fax (901) 763-1037
Email: pmathews@bhammlaw.com • Website: www.bhammlaw.com

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Response: The amendment proposed to this section has been dropped.

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HOARD DE DIRECTORS

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MR J M BOND Excesse Ensemb Fyrame Post Teamcolon

DR FRACY HALL Francisco Sciences Temposeo Dationally Charge

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MS JONNFER K ISWALL FORTHY Sporton Mempha Commission

MR, SAMPLE BLOR Frederic, Foot

MIT RICHARD SHADYAL JR.

Wednesday, December 9, 2020

Josh Whitehead Zoning Administrator Division of Planning and Development 125 N. Main St., Ste. 468 Memphis, TN 38103

Re: Proposed Planned Developments ("PDs") Zoning Changes to Medical District Overlay in Unified Development Code, Section 8.2.2(D)

Dear Mr. Whitehead,

This letter is written to request that the proposed changes to the Unified Development Code to rescind the prohibition on Planned Developments ("PDs") in the Medical District Overlay, Section 8.2.2(D), be dropped from consideration at this time.

Please note that the present request is not reflective of a blanket opposition to the proposed change, nor precludes potential support for such changes in the future. Generally, we are supportive of a less restrictive zoning code that allows for the development of innovative projects that stimulates the investment potential and built environment of the Medical District.

However, our present request to maintain the code as currently stipulated within the UDC reflects a desire to better study and understand the potential ramifications from the removal of such restriction, especially given the short timeframe in which we have had to review the proposed changes.

Thank you for your attention and consideration regarding this matter, and please feel free to reach out with any further questions and/or concerns.

Sincerely,

Ben Schulman

Director of Real Estate

CC: Quincy Jones, Neighborhood Preservation, Inc. Imani Jasper, Neighborhood Preservation, Inc.

655 Madister Avenue - Moretims TM 3890 N (497 1552 5281) Indication registration registration (IIII 10 M M IIII)

Response: The amendment proposed to this section has been dropped.

JOHN D. JONES 1763 PEACH AVENUE MEMPHIS, TN 36112

December 7, 2020

Josh Whitehead, Zoning Administrator Land Use and Development Services 125 N. Main Street Memphis, TN 38103

RE: Proposed Amendments to the Unified Development Code

Josh:

Hello again, I apologize at the outset for the lateness of this letter. I commend you for your thoroughness and your willingness to accept the sometimes strongly worded comments from neighborhood and civic associations and yet find a way to make modifications.

With that said I do find upon a second review of the text amendments, that I have some questions and/or concerns with two of the proposed amendments, particularly Items 24 and 64.

Item 24 proposes changes to the Contextual Infill Standards, 3.9.1 and 2. As a member of neighborhood association and a former public-sector planner, I have always felt that this was one of the better changes that was added to the zoning code. It codifies the approach that the OPD staff used when in evaluating infill development projects under the 1980 Ordinance and Regulations.

3.9.1A(1) and 3.9.2A — The justification discusses that garages and projects that were built prior to the adoption of the code, (adopted in the Summer of 2010, and the effective date January 1, 2011) are nonconforming and subject to that section of the code. It is completely reasonable to make it clear that they are exempt from this section of the UDC. But why move the date forward some 9 years, to January 2020. Any project that was built between January 1, 2011 and January 1, 2020 should be regulated by the UDC unless a waiver a granted.

3.9.2B(4) — I understand the justification for modifications to lot widths. Processed via the LUCB with notice seems like the way to go for Major and Minor subdivisions. Do not understand the extension of this authority to Landmarks. Their (MLC) notification requirements are less than LUCB and BOA. Since all of the residential Landmarks Districts have involved a neighborhood association in the formation of their guidelines, I respectfully submit that, if this aspect of this amendment is approved, an additional statement should be added that requires notification to the appropriate neighborhood association.

3.9.2H – I support the changes. This section is particularly helpful for neighborhoods that are not designated as a local landmarks district. I respectfully suggest, that language stating that where applicable, the Landmarks Commission shall determine the appropriate location for garages.

Item 34: THANK YOU – THIS ONE IS SORELY NEEDED THROUGHOUT MEMPHIS!!!!!

Page 2

Item 64

9.3.2D. Whether it is a formal Community Impact Statement or its more common sister, comments from associations and individual neighbors, I respectfully request the addition of a statement that reads "Any CIS or public comment received after the staff report has been published will be referenced at the public hearing and added to the materials that are forwarded to the legislative body(s) for their review". This is merely codifying what staff routinely does now.

9.3.2E. I am concerned at the use of the word "may" in this section rather than "shall". In non-exeunt situations, notice of a public meeting would include the same mailing list as the required mailed public notice. It is at least impractical to hold a "zoom" style meeting with upwards of 500 individuals, (one property owner for each property on the notice map). So, I am suggesting that there be a requirement, a "shall" instead of a "may" that any applicant coming before the LUCB and the BOA shall in lieu of a public meeting, make contact with the appropriate neighborhood association(s) that represent the subject property. The applicant shall maintain and submit to staff as evidence that such a meeting has been requested all e-mails and texts associated with the meeting. In the case of the BOA, where footnote 2 applies, said meeting can be waived.

I would further propose for a <u>future amendment to the text</u>, that a Public Notice Sign be posted for applications to the Board of Adjustment for Use Variances and Conditional Use Permits. These are more akin to a rezoning and a Special Use Permit than bulk variances and should be treated differently.

Thank you for your attention to this letter and I look forward to a continuing dialog.

Best Regards

John D. Jones

Response: The proposed amendment to Sub-Section 9.3.2D was included in the Land Use Control Board's approval of this zoning text amendment.

CITY OF MEMPHIS COUNCIL AGENDA CHECK-OFF SHEET

ONE ORIGINAL ONLY STAPLED TO DOCUMENTS	Planning & Z	oning COM		2 February 2021 DATE 2 February 2021 DATE	
RESOLUTION	CONDEMNATIO	CATION	X REQUES	ACCEPTANCE / ST FOR PUBLIC I	AMENDMENT HEARING
ITEM DESCRIPTION:	An ordinance approv	ing a compre	eeeeeeeeeeeeeeeeeeeeeeeeeeeeeeeeeeeeee	 ing	
CASE NUMBER:	Z 20-10				
LOCATION:	Certain parcels adjac	ent to Summe	er between: 1)	Holmes and Sevier	r and 2) Novarese and Stratford
COUNCIL DISTRICTS:	District 5 and Super l	District 9			
APPLICANT:	Department of Comp	rehensive Pla	nning of the I	Division of Plannin	g and Development
REPRESENTATIVES:	Ashley Cash				
EXISTING ZONING:	Commercial Mixed U	Jse-3			
REQUEST:	Comprehensive Rezo	ning of Sumi	mer between:	1) Holmes and Sev	ier and 2) Novarese and Stratford
RECOMMENDATION:	The Division of Plant The Land Use Control				Approval Approval
RECOMMENDED COUNC	Set a	date for publi		rst reading – <u>5 Janu</u> ary 2021	uary 2021
PRIOR ACTION ON ITEM:		DATE ORGANIZA	ATION - (1) E	OVED (2) DENIEI BOARD / COMMIS	SSION
FUNDING: (2) \$ \$ SOURCE AND AMOUNT O	F FUNDS	REQUIRES AMOUNT REVENUE OPERATIN	S CITY EXPE OF EXPENDI TO BE RECE	EIVED	
\$ ADMINISTRATIVE APPRO	 DVAL:		 DATE	POSITION	
	, , , , , , , , , , , , , , , , , , , ,		<u></u>	MUNICIPAL PL	ANNER
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				DIRECTOR (JOI	,
				COMPTROLLER	
				FINANCE DIRE	CTOR
				CITY ATTORNE	EY
				CHIEF ADMINI	STRATIVE OFFICER
				COMMITTEE C	HAIRMAN



Memphis City Council Summary Sheet

Z 20-10

Zoning Ordinance approving a zoning district reclassification for certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford.

- Approval of this zoning district reclassification will be reflected on the Memphis and Shelby Counting Zoning Atlas;
- No contracts are affected by this item; and
- No expenditure of funds/budget amendments are required by this item.

ZONING ORDINANCE AMENDING ORDINANCE NO. 5367 OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, TENNESSEE, ADOPTED ON AUGUST 10, 2010, AS AMENDED, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, SO AS TO MAKE CERTAIN CHANGES IN THE USE DISTRICTS PROVIDED IN SAID ORDINANCE.

WHEREAS, a proposed amendment to the Memphis and Shelby County Unified Development Code, being Ordinance No. 5367 of the Code of Ordinances, City of Memphis, Tennessee, as amended, has been submitted to the Memphis and Shelby County Land Use Control Board for its recommendation, designated as **Case Number: Z 20-10**; and

WHEREAS, the Memphis and Shelby County Land Use Control Board reviewed this proposal on 10 December 2020 and has filed its recommendation, and the Division of Planning and Development has filed its report and recommendation with the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned proposal pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said proposal is consistent with the Memphis 3.0 Comprehensive Plan; and

WHEREAS, the provisions of the Code of Ordinances of the City of Memphis, Tennessee, as amended, relating to the proposed amendment, have been complied with.

NOW THEREFORE, BE IT ORDAINED, BY THE COUNCIL OF THE CITY OF MEMPHIS:

SECTION 1:

THAT, the Memphis and Shelby County Unified Development Code, Ordinance No. 5367 of the Code of Ordinances of the City of Memphis, as amended, be and the same hereby is amended with respect to Use Districts, as articulated in the attached table.

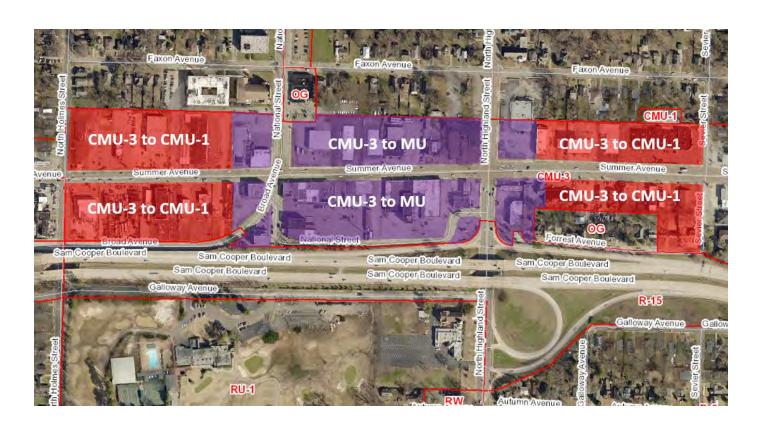
SECTION 2:

THAT, the Zoning Administrator of the Division of Planning and Development be, and hereby is, directed to make the necessary changes in the Official Use District Maps to conform to the changes herein made; that all official maps and records of the Memphis and Shelby County Land Use Control Board and the City of Memphis be, and hereby are, amended and changed so as to show the aforementioned amendment of said Zoning Ordinance.

SECTION 3:

THAT, this ordinance take effect from and after the date it shall have been passed by the Council, signed by the Chair of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller, and become effective as otherwise provided by law.

MAPS OF THE ZONING CHANGES



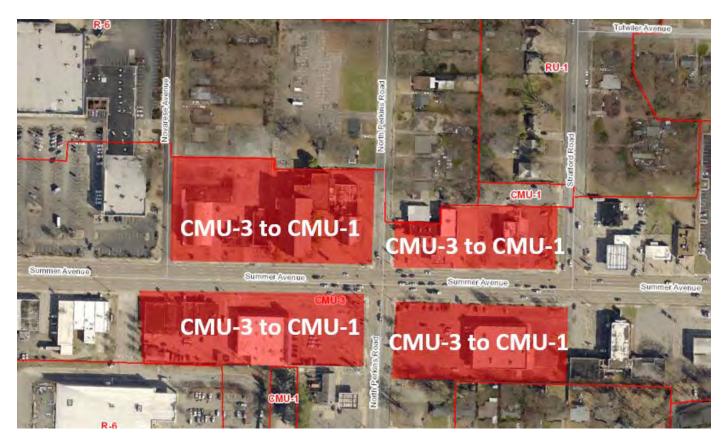


TABLE WITH DATA ON EACH AFFECTED PARCEL

anmer eport Label	Parcel ID	Zoning	Proposed Zoning	Property Address	Owner Name	Owner Address	City State Zip	Future Land Use	Shape Area (sq ft)
	038036 00030C	CMU-3	CMU-1	3300 SUMMER AVE	NEW TYLER A M E CH	3300 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	39865.2946
	038036 00029	CMU-3	CMU-1	0 SUMMER AVE	NEW TYLER A M E CH	3300 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	14394.2668
	038036 00038	CMU-3	CMU-1	3320 SUMMER AVE	MID-STATE AUTOMOTIVE DISTRIBUTORAS INC	P O BOX 06116	CHICAGO, IL 60606	Anchor Neighborhood - Mix of Building Types	51315.8808
	038064 00029	CMU-3	CMU-1	3522 SUMMER AVE	DABIT STEVE AND DIANA DABIT AND RAIL LOABIT AND BARBARA A DABIT (RS)	3276 WOODLAND TRCE E	SOUTHAVEN, MS 38672	Anchor Neighborhood - Mix of Building Types	19226.6507
	044038 00006	CMU-3	CMU-1	3329 SUMMER AVE	MOORMAN FRANK E TESTAMENTARY TRUST	5815 MICHAELSON DR	OLIVE BRANCH, MS 38654	Anchor Neighborhood - Mix of Building Types	14169.1354
	044038 00008C	CMU-3	CMU-1	3337 SUMMER AVE	HOPE WORKS INC	1930 UNION AVE	MEMPHIS, TN 38104	Anchor Neighborhood - Mix of Building Types	47905.9663
	044040 00009	CMU-3	MU	3445 SUMMER AVE	WOFFORD GEORGE W.II	3333 POPLAR AVE	MEMPHIS, TN 38111	Anchor - Urban Main Street	43987.9040
	044088 00001	CMU-3	MU	0 N HIGHLAND ST	BERUK PROPERTIES INC	4646 POPLAR AVE 302 STE	MEMPHIS, TN 38117	Anchor - Urban Main Street	7120.48304
		CMU-3	MU		PROPERTY OF THE PROPERTY OF TH				6872.59990
_	044088 00003	CMU-3	MU	3515 SUMMER AVE	TRANSITIONS HALFWAY MINISTRIES INC	3629 HIGHLAND PARK PL	MEMPHIS, TN 38111	Anchor - Urban Main Street	6872.59990
				2004 - 0100000000000000000000000000000000		****		Anchor Neighborhood - Mix of Building	24207 0502
()	044088 00005C	CMU-3	CMU-1	3531 SUMMER AVE	MCGHEE JOSEPH E & GALE H	2429 LACOSTA DR	BARTLETT, TN 38134	Types	21287.8503
	044088 00030C	CMU-3	MU	630 N HIGHLAND ST	LOVEJOY HIGHLAND LLC	6000 WALDEN DR 101 STE	KNOXVILLE, TN 37919	Anchor - Urban Main Street	19079.9510
2	044040 00036	CMU-3	MU	614 NATIONAL ST	CALPICK HOLDINGS LLC	614 NATIONAL ST	MEMPHIS, TN 38122	Anchor - Urban Main Street	15714.0281
	044040 00034C	CMU-3	MU	610 NATIONAL ST	GRIFFIN WILLIAM N JR (TR)	6489 QUAIL HOLLOW RD 100 STE	MEMPHIS, TN 38120	Anchor - Urban Main Street	11177.2703
	038064 00001C	CMU-3/RU-1	MU/RU-1	3502 SUMMER AVE	WADLINGTON EMMIE L	PO BOX 1159	DEERFIELD, IL 60015	Anchor - Urban Main Street Anchor Neighborhood - Mix of Building	80831.8195
	044038 00004C	CMU-3	CMU-1	3315 SUMMER AVE	FRANKS WILLIAM C	3321 SUMMER AVE	MEMPHIS, TN 38122	Types Anchor Neighborhood - Mix of Building	41459.696
5	038036 00033	CMU-3	CMU-1	0 N HOLMES ST	NEW TYLER A M E CH	3300 SUMMER AVE	MEMPHIS, TN 38122	Types	5405.69172
	038036 00037	CMU-3	CMU-1	3316 SUMMER AVE	HUA JUNWEI AND PEILI CHEN AND SIMON SU YUAN HUA (RS)	5246 COSGROVE CV	MEMPHIS, TN 38117	Anchor Neighborhood - Mix of Building Types	27888.7862
3	038036 00022C	CMU-3	CMU-1	3362 SUMMER AVE	MONTESI ERNEST J AND PATRICIA M VEGLIO AND MARIA M BARLOW	PO BOX 722	ELLENDALE, TN 38029	Anchor Neighborhood - Mix of Building Types	83922.8381
	038037 00025C	CMU-3	MU	3430 SUMMER AVE	THIRTY FOUR THIRTY SUMMER LLC	3880 ROUNDTREE RD 4 UNIT	JEFFERSON,MD 21755	Anchor - Urban Main Street	37336.507
)	038037 00023C	CMU-3	MU	3432 SUMMER AVE	KIMBROUGH FAMILY TRUST (CO-TRS) (1/3%) AND	1445 DONLON ST 20 STE	VENTURA,CA 93003	Anchor - Urban Main Street	25068.2892
	038036 00021	CMU-3	MU	3376 SUMMER AVE	IRBY BOBBY JR	3376 SUMMER AVE	MEMPHIS, TN 38122	Anchor - Urban Main Street	20951.2538
	038037 00021C	CMU-3	MU	3440 SUMMER AVE	BURIED TREASURES LLC	PO BOX 22601	MEMPHIS, TN 38122		45804.4581
	038057 00021C	CMU-3/CMU-1	CMU-1	3562 SUMMER AVE	GREGORY REALTY GP	PO BOX 382366	GERMANTOWN, TN 38183	Anchor - Urban Main Street Anchor Neighborhood - Mix of Building Types	95503.9556
1	038037 00020	CMU-3	MU	3464 E SUMMER AVE	HARBERT JOHN L	1935 EVELYN AVE	MEMPHIS, TN 38104		22588.7732
					JACKSON AVE LLC			Anchor - Urban Main Street	
	038037 00019	CMU-3	MU	3476 SUMMER AVE		2903 S PERKINS RD	MEMPHIS ,TN 38118	Anchor - Urban Main Street	21901.5930
	038037 00018	CMU-3	MU	657 E N HIGHLAND	JACKSON AVE LLC	2903 S PERKINS RD	MEMPHIS, TN 38118	Anchor - Urban Main Street Anchor Neighborhood - Mix of Building	15715.4658
	038064 00028	CMU-3	CMU-1	3530 SUMMER AVE	LINDER JAMES S	6310 MASSEY WOODS CV	MEMPHIS, TN 38120	Types	11032.2232
	038036 00018C	CMU-3	MU	3380 SUMMER AVE	MIGLIARA LAWRENCE	3254 WINBROOK DR	MEMPHIS, TN 38116	Anchor - Urban Main Street Anchor Neighborhood - Mix of Building	16509.7196
	038064 00027	CMU-3	CMU-1	3540 SUMMER AVE	GRABER BLAIR S	3540 SUMMER AVE 103 STE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building	28139.5145
)	038064 00026	CMU-3	CMU-1	3550 SUMMER AVE	CK DESIGNS LLC	3550 SUMMER AVE	MEMPHIS, TN 38122	Types Anchor Neighborhood - Mix of Building	20358.1945
	044038 00002C	CMU-3	CMU-1	3297 SUMMER AVE	GREENBERG BLATT CHILDREN LLC	15563 MANCHESTER RD	BALLWIN MO 63011	Types Anchor Neighborhood - Mix of Building	36345.0066
2	044038 00003	CMU-3	CMU-1	3307 SUMMER AVE	HUYNH HIEN TIEN	3307 SUMMER AVE	MEMPHIS, TN 38122	Types Anchor Neighborhood - Mix of Building	13452.1137
1	044038 00009	CMU-3	CMU-1	3347 SUMMER AVE	BROCK MARGARET L	10023 ROSEMARK RD	ATOKA TN 38004	Types Anchor Neighborhood - Mix of Building	7461.15925
	044038 00010	CMU-3	CMU-1	3353 SUMMER AVE	TPB REAL ESTATE LLC	5840 FAIRWOOD LN	MEMPHIS TN 38120	Types Anchor Neighborhood - Mix of Building	28441.9071
i .	044038 00011 044038 00012	CMU-3 CMU-3	CMU-1 MU	3365 SUMMER AVE 3375 SUMMER AVE	IGLESIA PENTECOSTAL RIOS DE AGUA VIVA MOTHANNA INC	3361 SUMMER AVE 4650 SUMMER AVE	MEMPHIS, TN 38122 MEMPHIS, TN 38122	Types Anchor - Urban Main Street	25492.6731 28872.1159

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Summer Report Label	Parcel ID	Current	Proposed Zoning	Property Address	Owner Name	Owner Address	City State Zip	Future Land Use	Shape Area (sq ft)
38	044040 00040	CMU-3	MU	3437 SUMMER AVE	GATLIN LE JR	4017 WASHINGTON RD 353 PMB	CANONSBURG, PA 15317	Anchor - Urban Main Street	3421,590222
39	044040 00037	CMU-3	MU	3459 SUMMER AVE	KIM YOUNG HOON & IN JA	3459 SUMMER AVE	MEMPHIS, TN 38122	Anchor - Urban Main Street	50870.83335
40	044040 00011	CMU-3	MU	3487 SUMMER AVE	PIRANHA INC	2400 AIRWAYS BLVD	MEMPHIS, TN 38114	Anchor - Urban Main Street	18953.04703
41	044088 00002	CMU-3	MU	3509 SUMMER AVE	PIERCEY VIRGINIA A J AND EDITH L J JONES	180 PERSON RD	OAKLAND, TN 38060	Anchor - Urban Main Street	6896.88349
42	044088 00004	CMU-3	MU	3519 SUMMER AVE	MCGHEE JOSEPH E & GALE H	2429 LACOSTA DR	BARTLETT, TN 38134	Anchor Neighborhood - Mix of Building Types	7155.711769
	Carron Carro	Laboration of the laboratory	200000	A CONTRACTOR OF THE PARTY OF TH		Access to the second second	A CONTRACTOR OF THE PARTY OF TH	Anchor Neighborhood - Mix of Building	The same of the sa
43	044088 00008	CMU-3/OG	CMU-1/0G	3543 SUMMER AVE	ALLAD AUTO INC	3543 SUMMER AVE	MEMPHIS, TN 38122	Types	21161.56521
44	044088 00009C	CMU-3/OG	CMU-1/OG	3551 SUMMER AVE	FLORES EDGAR	3551 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	22069.95236
45	044088 00011	CMU-3	CMU-1	3559 SUMMER AVE	PEAK PROPERTIES LLC	1779 KIRBY PKWY 143 STE	GERMANTOWN TN 38138	Anchor Neighborhood - Mix of Building Types	14787.16099
46	044088 00012	CMU-3	CMU-1	3569 SUMMER AVE	RKA INVESTMENTS LLC null	556 WILLIAMSBURG LN	MEMPHIS TN 38117	Anchor Neighborhood - Mix of Building Types	14468,08083
47	044088 00031	CMU-3	CMU-1	3579 SUMMER AVE	THOMAS JANETTE'S A AND ERROL THOMAS	3579 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	8513.460613
A. T		-	700		GUPTA MANJU AND HEMANT GUPTA AND RAGINI GUPTA			Anchor Neighborhood - Mix of Building	
48	044088 00032	CMU-3	CMU-1	3589 SUMMER AVE	(RS)	6245 RIVER GROVE CV	MEMPHIS, TN 38120	Types	20753.64946
49	044039 00018C	CMU-3	MU	0 NATIONAL ST	CITY OF MEMPHIS	125 N MAIN ST	MEMPHIS, TN 38103	Anchor - Urban Main Street	16620.85014
50	044088 00029	CMU-3	MU	3514 FORREST AVE	TRANSITIONS HALFWAY MINISTRIES	3515 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	6998.052117
51	044040 00038	CMU-3	MU	611 N HIGHLAND ST	BOYLE TRUST & INVESTMENT CO	PO BOX 17800	MEMPHIS, TN 38187	Anchor - Urban Main Street	15337.45349
52	044088 00017	CMU-3	CMU-1	3580 FORREST AVE	NELSON MATT	3580 FORREST AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	8220.059248
53	044088 00016	CMU-3	CMU-1	3584 FORREST ST	POLK LAKESHA W	2487 WHITNEY AVE	MEMPHIS, TN 38127	Anchor Neighborhood - Mix of Building Types	8373.316189
54	038037 00034	CMU-3	MU	3400 SUMMER AVE	MCGARRY JOHN T LIVING TRUST	1611 E 53RD ST	CHICAGO, IL 60615	Anchor - Urban Main Street	45307.93416
55	044040 00039	CMU-3	MU	3437 SUMMER AVE	MIGLIARA LAWRENCE JR	3254 WINBROOK	MEMPHIS, TN 38116	Anchor - Urban Main Street	17694.32523
56	038036 00009C	CMU-3/RU-1	MU/RU-1	3353 FAXON AVE	COLLEGIATE SCHOOL OF MEMPHIS (THE)	3353 FAXON AVE	MEMPHIS, TN 38122	Anchor - Urban Main Street	116465.9113
57	044088 00014C	CMU-3	CMU-1	3590 FORREST AVE	GUS PROPERTIES INC	2020 QUAIL CREEK CV	MEMPHIS, TN 38119	Anchor Neighborhood - Mix of Building Types	17144.03073
58	063010 00014	CMU-3	CMU-1	4566 SUMMER AVE	BERCLAIR BAPTIST CHURCH	4584 SUMMER AVE	MEMPHIS, TN 38122- 4134	Low Intensity Commercial & Services	67813.3
59	063024 00002	CMU-3	CMU-1	4625 SUMMER AVE	TERMINAL-PLAZA ASSOCIATES	201 FILBERT ST STE 401	SAN FRANCISCO CA 94133-3238	Low Intensity Commercial & Services	65060.5
60	063010 00018	CMU-3	CMU-1	0 NOVARESE ST	BERCLAIR CHURCH OF CHRIST	666 NOVARESE ST	MEMPHIS, TN 38122	Primarily Single-Unit Neighborhood	16270.6
61	063010 00017	CMU-3	CMU-1	666 NOVARESE ST	BERCLAIR CHURCH OF CHRIST	4536 SUMMER AVE	MEMPHIS, TN 38122	Low Intensity Commercial & Services	25845.7
62	063010 00016	CMU-3	CMU-1	4550 SUMMER AVE	MARTIN HILDA J LIVING TRUST	475 N HIGHLAND ST APT 8G	MEMPHIS, TN 38122	Low Intensity Commercial & Services	17736.0
63	063010 00015	CMU-3	CMU-1	4556 SUMMER AVE	BAIXA LLC	333 E 34TH ST # 15K	NEW YORK, NY 10016	Low Intensity Commercial & Services	9417.6
64	063022 00038	CMU-3	CMU-1	4600 SUMMER AVE	ABDELRAHMAN SAMEH FATTAH	4600 SUMMER AVE	MEMPHIS, TN 38122- 4136	Low Intensity Commercial & Services	13623.7
65	063022 00039C	CMU-3	CMU-1	4628 SUMMER AVE	LANKFORD WILLIAM R	P O BOX 7971	MADISON WI 53707	Low Intensity Commercial & Services	35856.7
66	063022 00037	CMU-3	CMU-1	4590 SUMMER AVE	ABELRAHMAN SAMEH FATTOH AND ABELRAHMAN F	4590 SUMMER AVE	MEMPHIS, TN 38122	Low Intensity Commercial & Services	17837.2
67	063007 00011	CMU-3	CMU-1	4527 SUMMER AVE	SILLS JUDITH A	3866 POPLAR AVE	MEMPHIS, TN 38111	Low Intensity Commercial & Services	9050.0
60	063007 00012	CMU-3	CMU-1	4531 SUMMER AVE	SILLS JUDITH A	3866 POPLAR AVE	MEMPHIS, TN 38111	Low Intensity Commercial & Services	28225.4
60	away and					UT ALL CALL		III E	
03	063024 00001	CMU-3	CMU-1	4597 SUMMER AVE	TERMINAL-PLAZA ASSOCIATES	201 FILBERT ST STE 401	SAN FRANCISCO, CA 94133- 3238	Low Intensity Commercial & Services	29568.4
70	063007 00013C	LMU-3	CMU-1	4569 SUMMER AVE	FSC FMC-FD MEMPHIS TN LLC	1901 MAIN ST	LAKE COMO, NJ 7719	Low Intensity Commercial & Services	66269.3

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ATTEST:

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday 10 December 2020*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: Z 20-10

LOCATION: Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2)

Novarese and Stratford

COUNCIL DISTRICT: District 5 and Super District 9

APPLICANT: Department of Comprehensive Planning of the Division of Planning and

Development

REPRESENTATIVE: Ashley Cash

REQUEST: Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2)

Novarese and Stratford

EXISTING ZONING: Commercial Mixed Use – 3

The following spoke in support of the application: Ashley Cash

The following spoke in opposition of the application: Khalid Mothanna

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval of the application.

The motion passed by a unanimous vote.

AGENDA ITEM: 12

CASE NUMBER: Z 20-10 L.U.C.B. MEETING: 10 December 2020

LOCATION: Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese

and Stratford

COUNCIL DISTRICT: District 5 and Super District 9

APPLICANT: Department of Comprehensive Planning of the Division of Planning and Development

REPRESENTATIVE: Ashley Cash

REQUEST: Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese

and Stratford

EXISTING ZONING: Commercial Mixed Use – 3

CONCLUSIONS (p. 3)

1. The Department of Comprehensive Planning of the Division of Planning and Development has requested the comprehensive rezoning of Summer between 1) Holmes and Sevier and 2) Novarese and Stratford.

- 2. On 18 August 2020, City Council approved a resolution that 1) imposed a 180-day moratorium on the issuance of demolition permits of any structure built as a church at least 50 years ago on Summer and 2) requested a planning report on potential zoning changes to preserve such structures. Said report recommended a more holistic approach to zoning changes along Summer, spurring a second Council resolution that initiated this zoning change request.
- 3. The requested zoning change would affect 70 parcels (see pages 23 and 25). All affected parcels are currently zoned Commercial Mixed Use 3 (CMU-3). 42 parcels would be rezoned to Commercial Mixed Use 1 (CMU-1), and 28 to Mixed Use (MU).
- 4. CMU-3 is intended to be a high-intensity commercial district serving regional needs; CMU-1 a low-intensity commercial district serving neighborhood needs; and MU a physically integrated commercial district that permits commercial, townhouses, apartments, and institutions.
- 5. MU is a special purpose zoning district that before now has been applied only within the Uptown District. All new development in the MU district requires site plan approval by the Zoning Administrator. The ideal building within the MU district has retail / restaurant uses on the ground floor, and office / residential uses on the upper floors.
- 6. Any existing use that lost its by-right status would become a legacy use, thereby unable to expand without special zoning approval.
- 7. Staff finds that this request meets the approval criteria of Chapter 9.5 of the Unified Development Code.

CONSISTENCY WITH MEMPHIS 3.0 (pp. 31-40)

Per the Office of Comprehensive Planning, this proposal is *consistent* with the Memphis 3.0 General Plan.

RECOMMENDATION (p. 3)

Approval

Staff Writer: Brett Davis E-mail: brett.davis@memphistn.gov

GENERAL INFORMATION

Zoning Atlas Page: 2035 and 2040

Existing Zoning: Commercial Mixed Use – 3

PUBLIC NOTICE

In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed, signs posted, and newspaper notice published. A total of 64 notices were mailed on 20 November 2020, a total of four signs posted along Summer (see pages 41-44 for photographs), and a newspaper notice published in the Memphis Daily News on 24 November 2020.

STAFF ANALYSIS

Request

The request is the comprehensive rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford. All affected parcels are currently zoned Commercial Mixed Use -3. 42 parcels would be rezoned to Commercial Mixed Use -1, and 28 to Mixed Use.

Five subject parcels – 038036 00009C, 038064 00001C, 038064 00039C, 044088 00008, and 044088 00009C – are split-zoned between Commercial Mixed Use – 3 and another district. Only the Commercial Mixed Use – 3 portion of each parcel would be affected by this request.

The full application has been incorporated into this report on pages 5-40. Enclosed are:

- A letter of intent (p. 5).
- A report on historic churches along Summer Avenue (pp. 6-27), including
 - O Maps of the proposed zoning changes (pp. 23 and 25).
- The City Council resolution that initiated this zoning change request (p. 28).
- Data on every subject parcel (pp. 29-30).
- Reviews of the proposed zoning changes' consistency with the Memphis 3.0 General Plan (pp. 31-40).

Review Criteria

Staff *agrees* the review criteria as set out in Sub-Section 9.5.7B of the Unified Development Code are met.

9.5.7B Review Criteria

In making recommendations, the Land Use Control Board shall consider the following matters:

- 9.5.7B(1) Consistency with any plans to be considered (see Chapter 1.9);
- 9.5.7B(2) Compatibility with the present zoning (including any residential corridor overlay district) and conforming uses of nearby property and with the character of the neighborhood;
- 9.5.7B(3) Suitability of the subject property for uses permitted by the current versus the proposed district;
- 9.5.7B(4) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the City or County; and
- 9.5.7B(5) The availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and stormwater drainage facilities for the proposed zoning.

Conclusions

The Department of Comprehensive Planning of the Division of Planning and Development has requested the comprehensive rezoning of Summer between 1) Holmes and Sevier and 2) Novarese and Stratford.

On 18 August 2020, City Council approved a resolution that 1) imposed a 180-day moratorium on the issuance of demolition permits of any structure built as a church at least 50 years ago on Summer and 2) requested a planning report on potential zoning changes to preserve such structures. Said report recommended a more holistic approach to zoning changes along Summer, spurring a second Council resolution that initiated this zoning change request.

The requested zoning change would affect 70 parcels (see pages 23 and 25). All affected parcels are currently zoned Commercial Mixed Use -3 (CMU-3). 42 parcels would be rezoned to Commercial Mixed Use -1 (CMU-1), and 28 to Mixed Use (MU).

CMU-3 is intended to be a high-intensity commercial district serving regional needs; CMU-1 a low-intensity commercial district serving neighborhood needs; and MU a physically integrated commercial district that permits commercial, townhouses, apartments, and institutions.

MU is a special purpose zoning district that before now has been applied only within the Uptown District. All new development in the MU district requires site plan approval by the Zoning Administrator. The ideal building within the MU district has retail / restaurant uses on the ground floor, and office / residential uses on the upper floors.

Any existing use that lost its by-right status would become a legacy use, thereby unable to expand without special zoning approval.

Staff finds that this request meets the approval criteria of Chapter 9.5 of the Unified Development Code.

RECOMMENDATION

Staff recommends approval.

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City Engineer: No comments received. **City Fire Division:** No comments received. **City Real Estate:** No comments received. **Health Department:** No comments received. **Shelby County Schools:** No comments received. **Construction Code Enforcement:** No comments received. Memphis Light, Gas and Water: No comments received. Office of Sustainability and Resilience: No comments received.



Ashley Cash Administrator Office of Comprehensive Planning 125 N Main St, Ste 477 Memphis. TN 38103 Ashley Cash@memphatn.gov

October 27, 2020

Mr. Josh Whitehead Administrator Memphis and Shelby County Office of Planning and Development 125 N Main St, Ste 468 Memphis, TN 38103

RE: Comprehensive Rezoning Affected Parcels along Summer Avenue between Holmes and Sevier and between Novarese and Stratford.

Mr. Whitehead,

Please accept this letter as a request to initiate a comprehensive rezoning for "Affected Parcels" along two areas of the Summer Avenue corridor, "Area 1" between Holmes and Sevier and "Area 2" between Novarese and Stratford. In response to a demolition permit moratorium passed by the Memphis City Council on August 18, 2020, the Division of Planning and Development (DPD) conducted a Report on Historic Churches Along Summer Avenue. The analysis recommends a comprehensive rezoning for two areas to protect historic sites on the corridor, support the uses along the corridor and adjacent neighborhoods. Following a presentation of the report to the Memphis City Council on October 6, 2020, DPD was authorized to move forward in initiating a comprehensive rezoning for the affected parcels.

Enclosed you will find a report detailing the conditions of the historic sites and surrounding area on Summer, the authorizing resolution, a list of parcels, the Memphis 3.0 Consistency Analysis, and mailing labels to support this application. Thank you for considering this request to be placed on the December 2, 2020 agenda of the Memphis City Council. Please advise if you require any additional information.

Sincerely,

Ashley Cash



TO: Councilman Frank Colvett, Chair, Planning and Zoning Committee

FROM: Josh Whitehead, Zoning Administrator, Division of Planning and Development

DATE: October 6, 2020

A REPORT ON HISTORIC CHURCHES ALONG SUMMER AVE.

Mr. Chairman and Members:

Please find attached a report on historic churches on Summer Ave. This report is the result of a demolition permit moratorium passed by the Memphis City Council on August 18, 2020; it focuses on those structures that purpose-built as churches in 1970 or earlier and that are not in a residential zoning district. This report is organized accordingly:

- P. 2: Demolition permit moratorium resolution that requested this report
- P. 3: Vicinity map
- Pp. 4-12: Information, photographs, and maps of four historic church properties that fall under the demolition permit moratorium
- P. 13: Future Land Use Planning Map of the Jackson Planning District from the Memphis 3.0 General Plan
- P. 14: Table that compares each site's zoning district with its future land use as designated by Memphis 3.0
- P. 15: Descriptions and graphics of the sites' future land use designations
- P. 16: Table that compares permitted uses by select zoning district
- Pp. 17-20: Recommendations on rezoning
- P. 21: Next steps
- P. 22: An addendum regarding other churches on Summer Ave.

In summary, this report recommends that the City Council approve a resolution directing the Division of Planning and Development to submit an application to rezone certain properties in the Summer Avenue corridor to the Mixed Use, MU, and Commercial Mixed Use-1 (CMU-1) districts. These properties include and surround four historic church properties along Summer Ave. affected by the demolition permit moratorium passed by Council.

I would like to thank my colleague Brett Davis for his assistance on the preparation of this report.

C: Chase Carlisle, Council Member John Zeanah, Director, Division of Planning and Development Ashley Cash, Comprehensive Planning Administrator

APPROVED RESOLUTION (AUGUST 18, 2020)

A RESOLUTION REQUESTING A 180-DAY MORATORIUM ON THE ISSUANCE OF DEMOLITION PERMIT OF CHURCHES OVER 50 YEARS OLD AND REQUESTING THAT THE OFFICE OF PLANNING AND DEVELOPMENT PROVIDE A REPORT OUTLINING DIFFERENT USES UNDER LESS INTENSE ZONING DISTRICTS AND PROPOSED ZONING AMENDMENTS THAT AUTHORIZE SUCH USES

WHEREAS, Memphis is a community steeped in history and defined by the people and places that reflect our city's past and the vision held for the future; and

WHEREAS, the buildings and structures located within neighborhoods throughout our community often speak to the character of the neighborhood and often hold special significance, evoking emotions and memories among the people residing in those areas; and

WHEREAS, churches are specific edifices within communities that not only serve as places of worship for the congregants who are a part of the membership, but also gathering places and neighborhood meeting sites; throughout Memphis history many churches have also served as the backdrop for prominent historical events; and

WHEREAS, recognizing the place that past events hold in our history, the Council appreciates the balance that must be struck between progress and economic development to enhance our community and builds upon our future; and

WHEREAS, over the course of the last decade, the City of Memphis has welcomed significant development that has positively transformed neighborhoods and has contributed to the fabric and landscape of our city; and

WHEREAS, on some occasions, there is a balance to be struck between the vision conceived for development projects and being sympathetic to the sentiments and desires of those who have committed to the neighborhood and have financial and emotional investments tied to community anchors, including churches, in those neighborhoods; and

WHEREAS, construction progress has sometimes involved the sacrifice of historic churches in the name of new development and the City of Memphis is encouraged to take steps to document the history and significance of churches within certain neighborhoods to ensure that the zoning around these churches is thoughtful, appropriate and considers how a churches' destruction might erode the vitality of a neighborhood.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL that a 180-day moratorium on the issuance of any demolition permits for churches over 50 years old on Summer Avenue pending a report outlining the different uses that would be available under less intense zoning districts and proposed zoning amendments to preserve historical church structures or to authorize other similar uses.

BE IT FURTHER RESOLVED that exceptions to this resolution will be handled on a case-by-case basis through the adoption of exception resolutions by the City Council.

Sponsor: Chase Carlisle Patrice Robinson, Chairwoman

VICINITY MAP



Please note that the eastern extremity of Summer Avenue – approximately 0.45 miles between Ferrell Drive and Altruria Road – is a border between Memphis (to the south) and Bartlett (to the north).

Legend

Summer Avenue

SUBJECT STRUCTURES



Each star (*) represents the location of one of the four structures on Summer Ave. that were purpose-built as churches at least fifty years prior to approval of the resolution *and* that are not located in a residential zoning district.

Incidentally, all are located on the north side of Summer.

The following section provides information, photographs, and maps of the four subject structures – from west to east:

- 1. New Tyler African Methodist Episcopal Church
- 2. Former Highland Heights United Methodist Church
- 3. Berclair Church of Christ
- 4. Berclair Baptist Church

1.

3300 Summer Ave. New Tyler African Methodist Episcopal Church Built circa 1939

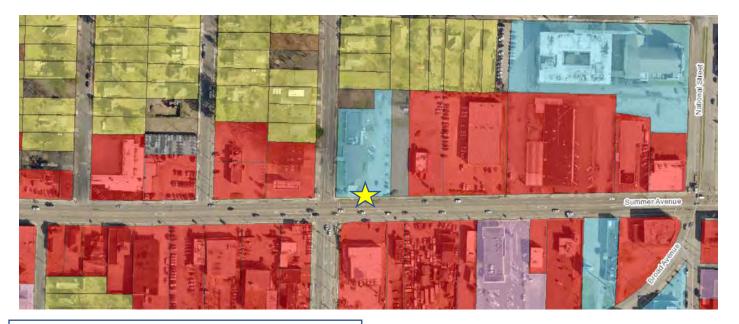


New Tyler African Methodist Episcopal Church, continued

Zoning Map



Land Use Map



Land Use Legend

Commercial S Institutional M

Single-Family Residential Multi-Family Residential

Office

2.

3476 Summer Ave. Most recently Highland Heights United Methodist Church; presently unused Built circa 1950



Former Highland Heights United Methodist Church, continued

Zoning Map



Land Use Map

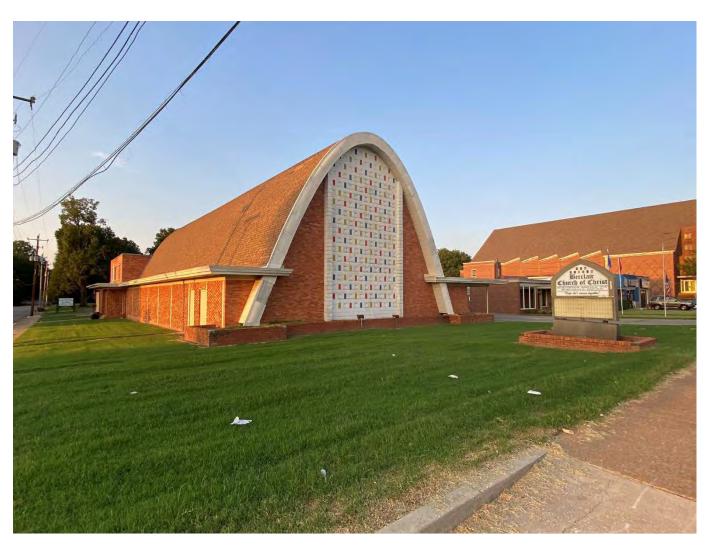


Land Use Legend

Commercial Single-Family Residential Office Institutional Multi-Family Residential

3.

4536 Summer Ave. Berclair Church of Christ Built circa 1950s-1960s



Berclair Church of Christ, continued

Zoning Map



Land Use Map

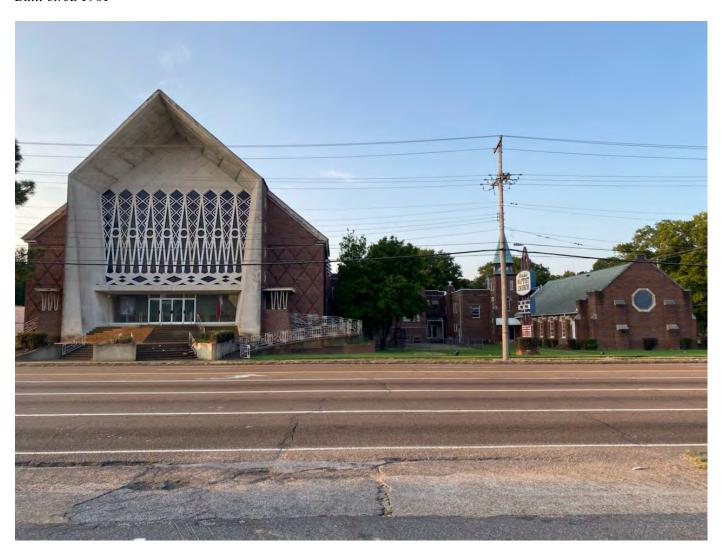


Land Use Legend

Commercial Single-Family Residential Office Institutional Multi-Family Residential

4.

4584 Summer Ave. Berclair Baptist Church Built circa 1961



Berclair Baptist Church, continued

Zoning Map



Land Use Map



Land Use Legend

Commercial Single-Family Residential Office Institutional Multi-Family Residential

MEMPHIS 3.0 FUTURE LAND USE MAP – JACKSON PLANNING DISTRICT

All four churches are within the Jackson planning district. The Memphis 3.0 future land use map of that district is included, and each church is identified with a star (**).

The New Tyler African American United Methodist Church and the former Highland Heights United Methodist Church are within the *Summer and Highland* anchor neighborhood and anchor, respectively. The two Berclair churches are not within an anchor or anchor neighborhood.





MEMPHIS 3.0 FUTURE LAND USE TABLE

Church	Address	Zoning District	Memphis 3.0 Future Land Use Designation	Memphis 3.0 Compatible Zoning Districts
1. New Tyler African American United Methodist Church	3300 Summer Ave.	CMU – 3	Anchor Neighborhood – Mix of Building Types	RU – 2 RU – 3 RU – 4
2. Former Highland Heights United Methodist Church	3476 Summer Ave.	CMU – 3	Urban Main Street	CMU – 2 CMP – 2 MU
3. Berclair Church of Christ	4536 Summer Ave.	CMU – 3	Low Intensity Commercial and Services	CMU – 1 OG
4. Berclair Baptist Church	4584 Summer Ave.	CMU – 3	Low Intensity Commercial and Services	CMU – 1 OG

DESCRIPTION AND GRAPHIC OF FUTURE LAND USE DESIGNATIONS

Anchor Neighborhood – Mix of Building Types

Generally Compatible Zoning Districts: RU - 1, RU - 2, RU - 3



Mix of Building Types Anchor Neighborhoods are a combination of one to three-story house-scale buildings and large homes and apartments of up to four stories close to anchors and along corridors. In these neighborhoods is a mix of attached, semidetached, and detached residential, all located within a 10-minute walk from the anchor destination. Any mixed-use is along corridors, allowing shopping destinations to connect between mixed-use and residential neighborhoods

Anchor – Urban Main Street
Generally Compatible Zoning Districts: CMU – 2, CMP – 2, MU



Urban Main Street Anchors are characterized by attached mixed-use buildings that span multiple blocks along a street. An Urban Main Street provides retail and services to surrounding neighborhoods in a pedestrian-friendly environment, making it possible to accomplish several errands in a single trip. An Urban Main Street is a center of activity and supports a shared sense of community.

Low Intensity Commercial and Services Generally Compatible Zoning Districts: CMU – 1, OG



Low Intensity Commercial and Service areas consist of low-rise buildings accessible mainly by car and can encompass up to 5 acres of land for one building. These service areas are outside of the anchor boundary and are usually located along a corridor or within its own area of multiple commercial and service amenities.

TABLE COMPARING PERMITTED USES BY SELECT ZONING DISTRICT

The following table outlines permitted uses and select bulk regulations in four of the nine compatible zoning districts, according to the Memphis 3.0 General Plan as listed above. The CMU-2, CMP-2, RU-1, RU-2 and OG districts were not included in this analysis as they were deemed inappropriate for the sections of Summer Avenue that were part of this study due to adjacent zoning districts. The table below compares the regulations of existing zoning for the four sites included in this study, CMU-3, and the four most appropriate zoning districts, CMU-1, MU, RU-3 and RU-4.

	CMU-3 High Intensity Commercial	CMU-1 Low Intensity Commercial	MU Mixed Use	RU-3 Low Intensity Multi-Family	RU-4 High Intensity Multi-Family
Permitted Commercial Uses	Gas stations Tire shops Auto repair Auto service Self-storage Restaurants Bars Retail	Auto service Restaurants Retail	Restaurants Retail	None	None
Permitted Residential Uses	Single Family only	Single Family only	Townhouse or Multi-Family	Single-Family or Multi-Family	Single-Family or Multi-Family
Bldg. Height	75 feet	48 feet	45 feet	45 feet	75 feet
Build-to Line	None	None	10 feet	None	None
Parking Setback (from street)	8 feet	8 feet	Behind the bldgs.	20 feet	20 feet

RECOMMENDATIONS

Based on the findings of the demolition permit moratorium passed by the Memphis City Council on August 18, 2020, and the recommendations of the Memphis 3.0 General Plan, the Division of Planning and Development recommends that the subject sites, as well as those properties adjacent to these sites, be rezoned in the following manner:

<u>Area 1</u>: Holmes to Sevier Streets (including Churches 1 and 2 as outlined in this report, Taylor AME and Highland Heights Methodist).

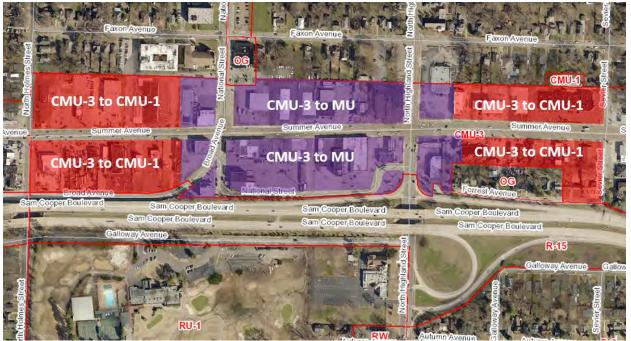
This area encompasses the historic heart of the Highland Heights neighborhood. In fact, the Memphis 3.0 Plan classifies the stretch of Summer Avenue in this area as an Urban Main Street as a nod to the fact that it comprised "downtown" Highland Heights during much of the twentieth century. See map below; parcels classified as Urban Main Street are indicated in purple.



Currently, this stretch of Summer Avenue is zoned CMU-3, the most intense of the commercial zoning districts under the Memphis and Shelby County Unified Development Code (the "UDC"). It is the recommendation of the Division of Planning and Development ("DPD") that the section of Summer Avenue be removed from the CMU-3 zoning district in an effort to prohibit such auto-oriented uses, at least as a matter of right, as gas stations, car lots, auto repair shops and self-storage facilities.

For those parcels identified by the Memphis 3.0 General Plan as Urban Main Street along Summer Avenue (and colored in purple along that street in the map above), DPD recommends a reclassification to the MU, Mixed Use, zoning district. This district requires new buildings to be built in close proximity of the sidewalk, to align with the existing structures in this area, and limit auto-related uses such as those listed above. Under Sec. 3.11.1, existing buildings could be expanded to a degree without complying with this setback requirement, but all new buildings would be required to be built in compliance with the MU zoning district regulations.

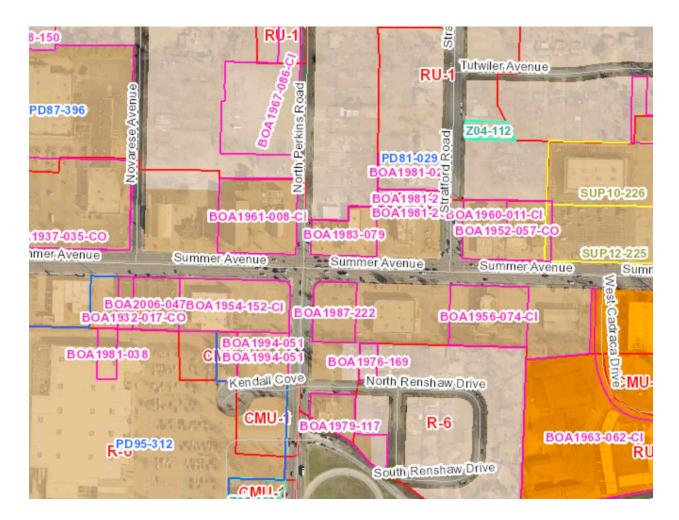
For those parcels identified by the Memphis 3.0 General Plan as an Anchor Neighborhood (and colored in orange in the map above), DPD recommends a reclassification to the CMU-1, Commercial Mixed Use-1, zoning district. Like the MU district, this district would limit more intense auto-related uses cited above. It would not, however, require all new buildings to be built in close proximity to the sidewalk to allow more flexibility in redevelopment for these blocks outside of "downtown" Highland Heights.



This map shows the extent of the rezoning in Area 1.

Area 2: Novarese to Stratford Roads (including Churches 3 and 4, Berclair Church of Christ and Berclair Baptist).

This area encompasses the eastern portion of the historic Berclair community. The Memphis 3.0 Plan classifies the stretch of Summer Avenue in this area as Low Intensity Commercial and Services. See map below; parcels classified as Low Intensity Commercial and Services are indicated in light brown.



As with the case with Area 1, the stretch of Summer Avenue in Area 2 is also currently zoned CMU-3. It is the recommendation of DPD that the section of Summer Avenue be removed from the CMU-3 zoning district and reclassified as CMU-1 under the same logic as outlined above for Area 1. Also, given the permitted uses in the CMU-3 district under the UDC, it is incompatible with the Memphis 3.0 Plan's recommendation that these blocks of Summer accommodate "low intensity commercial."



This map shows the extent of the rezoning in Area 2.

NEXT STEPS

DPD recommends that the City Council approve a rezoning initiation resolution that would effectuate the rezoning process. If that resolution is approved, DPD would then file a rezoning application pursuant to the recommendations above with the Land Use Control Board by November 2, 2020, in order to be placed on that body's December 10 agenda. Once the Land Use Control Board votes on the matter, it will be forwarded to the Memphis City Council for final consideration as a zoning ordinance. Under the anticipated 2021 schedule of the regular meetings of the Memphis City Council, this zoning ordinance will likely go though its three readings by Council before the demolition permit moratorium that was passed on August 18, 2020, expires on February 18, 2021.

In addition, the Division of Planning and Development will investigate any other potential zoning changes along Summer Avenue as it conducts a broader planning study of the corridor in early 2021.

ADDENDUM - OTHER CHURCHES ON SUMMER AVE.

Several churches on Summer Ave. have not been addressed in this report. Examples include:

Churches that are in residential zoning districts, such as

- St. Michael Catholic Church at 3863 Summer Ave.
- Trafalgar Village Baptist Church at 6161 Summer Ave.

Congregations that occupy 50+ year-old structures that were not purpose-built as churches, such as

- Iglesia de Dios Pentecostal Ríos de Agua Viva at 3365 Summer Ave.
- Believing Church at 4798 Summer Ave.

Churches that have been demolished, such as

- Grimes Memorial United Methodist Church at 4649 Summer Ave.

Resolution authorizing the Memphis and Shelby County Division of Planning and Development to proceed with the submittal of an application for rezoning certain properties along Summer Avenue between Holmes and Sevier Streets and between Berclair and Stratford Roads.

WHEREAS, on August 18, 2020, the Memphis City Council approved a moratorium ("the Moratorium") on the issuance of demolition permits for places of worship along Summer Avenue of more than 50 years in age;

WHEREAS, since this approval, the Memphis and Shelby County Division of Planning and Development ("DPD") has undertaken a study of four sites along Summer Avenue that fall under this moratorium, as well as properties adjacent to these sites;

WHEREAS, Section 9.5.12 of the Unified Development Code states that only the legislative body may initiate a comprehensive rezoning; and

WHEREAS, on October 6, 2020, DPD filed a report with the Memphis City Council based on its study of four sites along Summer Avenue that fall under the moratorium, as well as properties adjacent to these sites;

WHEREAS, the report recommends the rezoning of certain properties along Summer Avenue based, in part, on the recommendations of the Memphis 3.0 General Plan and in part on the objectives of the moratorium;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL does hereby authorize the Memphis and Shelby County Division of Planning and Development to proceed with the submittal of an application to the Memphis and Shelby County Land Use Control Board for rezoning certain properties along Summer Avenue between Holmes and Sevier Streets and between Berclair and Stratford Roads.

BE IT FURTHER RESOLVED BY THE MEMPHIS CITY COUNCIL that the Memphis and Shelby County Division of Planning and Development shall conduct a small area plan in the area of Summer Avenue to determine if any other zoning changes may be necessary in the future.

Sponsor: Chase Carlisle Patrice Robinson, Chairwoman

Summer Report Label	Parcel ID	Zoning	Proposed Zoning	Property Address	Owner Name	Owner Address	City State Zip	Future Land Use	Shape Area (sq ft)
	038036 00030C	CMU-3	CMU-1	3300 SUMMER AVE	NEW TYLER A M E CH	3300 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	39865.2946
2	038036 00029	CMU-3	CMU-1	0 SUMMER AVE	NEW TYLER A M E CH	3300 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	14394.2668
3	038036 00038	CMU-3	CMU-1	3320 SUMMER AVE	MID-STATE AUTOMOTIVE DISTRIBUTORAS INC	P O BOX 06116	CHICAGO, IL 60606	Anchor Neighborhood - Mix of Building Types	51315.8808
4	038064 00029	CMU-3	CMU-1	3522 SUMMER AVE	DABIT STEVE AND DIANA DABIT AND RAII I DABIT AND BARBARA A DABIT (RS)	3276 WOODLAND TRCE E	SOUTHAVEN, MS 38672	Anchor Neighborhood - Mix of Building Types	19226.6507
5	044038 00006	CMU-3	CMU-1	3329 SUMMER AVE	MOORMAN FRANK E TESTAMENTARY TRUST	5815 MICHAELSON DR	OLIVE BRANCH, MS 38654	Anchor Neighborhood - Mix of Building Types	14169.1354
6	044038 00008C	CMU-3	CMU-1	3337 SUMMER AVE	HOPE WORKS INC	1930 UNION AVE	MEMPHIS, TN 38104	Anchor Neighborhood - Mix of Building Types	47905.9663
7	044040 00009	CMU-3	MU	3445 SUMMER AVE	WOFFORD GEORGE W II	3333 POPLAR AVE	MEMPHIS, TN 38111	Anchor - Urban Main Street	43987.9040
8	044088 00001	CMU-3	MU	0 N HIGHLAND ST	BERUK PROPERTIES INC	4646 POPLAR AVE 302 STE	MEMPHIS, TN 38117	Anchor - Urban Main Street	7120.48304
9	044088 00003	CMU-3	MU	3515 SUMMER AVE	TRANSITIONS HALFWAY MINISTRIES INC	3629 HIGHLAND PARK PL	MEMPHIS, TN 38111	Anchor - Urban Main Street	6872.59990
								Anchor Neighborhood - Mix of Building	
10	044088 00005C	CMU-3	CMU-1	3531 SUMMER AVE	MCGHEE JOSEPH E & GALE H	2429 LACOSTA DR	BARTLETT, TN 38134	Types	21287.8503
11	044088 00030C	CMU-3	MU	630 N HIGHLAND ST	LOVEJOY HIGHLAND LLC	6000 WALDEN DR 101 STE	KNOXVILLE, TN 37919	Anchor - Urban Main Street	19079.95109
12	044040 00036	CMU-3	MU	614 NATIONAL ST	CALPICK HOLDINGS LLC	614 NATIONAL ST	MEMPHIS, TN 38122	Anchor - Urban Main Street	15714.0281
13	044040 00034C	CMU-3	MU	610 NATIONAL ST	GRIFFIN WILLIAM N JR (TR)	6489 QUAIL HOLLOW RD 100 STE	MEMPHIS, TN 38120	Anchor - Urban Main Street	11177.2703
14	038064 00001C	CMU-3/RU-1	MU/RU-1	3502 SUMMER AVE	WADLINGTON EMMIE L	PO BOX 1159	DEERFIELD, IL 60015	Anchor - Urban Main Street Anchor Neighborhood - Mix of Building	80831.8195
15	044038 00004C	CMU-3	CMU-1	3315 SUMMER AVE	FRANKS WILLIAM C	3321 SUMMER AVE	MEMPHIS, TN 38122	Types Anchor Neighborhood - Mix of Building	41459.696
16	038036 00033	CMU-3	CMU-1	0 N HOLMES ST	NEW TYLER A M E CH	3300 SUMMER AVE	MEMPHIS, TN 38122	Types	5405.69172
17	038036 00037	CMU-3	CMU-1	3316 SUMMERAVE	HUA JUNWEI AND PEILI CHEN AND SIMON SU YUAN HUA (RS)	5246 COSGROVE CV	MEMPHIS, TN 38117	Anchor Neighborhood - Mix of Building Types	27888.7862
18	038036 00022C	CMU-3	CMU-1	3362 SUMMER AVE	MONTESI ERNEST J AND PATRICIA M VEGLIO AND MARIA M BARLOW		ELLENDALE, TN 38029	Anchor Neighborhood - Mix of Building Types	83922.8381
19	038037 00025C	CMU-3	MU	3430 SUMMER AVE	THIRTY FOUR THIRTY SUMMER LLC	3880 ROUNDTREE RD 4 UNIT	JEFFERSON,MD 21755	Anchor - Urban Main Street	37336.5078
20	038037 00023C	CMU-3	MU	3432 SUMMER AVE	KIMBROUGH FAMILY TRUST (CO-TRS) (1/3%) AND	1445 DONLON ST 20 STE	VENTURA,CA 93003	Anchor - Urban Main Street	25068.2892
21	038036 00021	CMU-3	MU	3376 SUMMER AVE	IRBY BOBBY JR.	3376 SUMMER AVE	MEMPHIS, TN 38122	Anchor - Urban Main Street	20951.2538
22	038037 00021C	CMU-3	MU	3440 SUMMER AVE	BURIED TREASURES LLC	PO BOX 22601	MEMPHIS, TN 38122	Anchor - Urban Main Street	45804.45816
23	038064 00039C	CMU-3/CMU-1		3562 SUMMER AVE	GREGORY REALTY GP	PO BOX 382366	GERMANTOWN, TN 38183	Anchor Neighborhood - Mix of Building Types	95503.9556
24	038037 00020	CMU-3	MU	3464 E SUMMER AVE	HARBERT JOHN L	1935 EVELYN AVE	MEMPHIS, TN 38104	Anchor - Urban Main Street	22588.7732
25	038037 00019	CMU-3	MU	3476 SUMMER AVE	JACKSON AVE LLC	2903 S PERKINS RD	MEMPHIS, TN 38118	Anchor - Urban Main Street	21901.5930
26	038037 00018	CMU-3	MU	657 E N HIGHLAND	JACKSON AVE LLC	2903 S PERKINS RD	MEMPHIS, TN 38118	Anchor - Urban Main Street	15715.4658
27	038064 00028	CMU-3	CMU-1	3530 SUMMER AVE	LINDER JAMES S	6310 MASSEY WOODS CV	MEMPHIS, TN 38120	Anchor Neighborhood - Mix of Building Types	11032.2232
28	038036 00018C	CMU-3	MU	3380 SUMMER AVE	MIGLIARA LAWRENCE	3254 WINBROOK DR	MEMPHIS, TN 38116	Anchor - Urban Main Street	16509.7196
29	038064 00027	CMU-3	CMU-1	3540 SUMMER AVE	GRABER BLAIR S	3540 SUMMER AVE 103 STE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	28139.5145
30	038064 00026	CMU-3	CMU-1	3550 SUMMER AVE	OX DESIGNS LLC	3550 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	20358.1945
31	044038 00002C	CMU-3	CMU-1	3297 SUMMER AVE	GREENBERG BLATT CHILDREN LLC	15563 MANCHESTER RD	BALLWIN MO 63011	Anchor Neighborhood - Mix of Building Types	36345.00666
32	044038 00003	CMU-3	CMU-1	3307 SUMMER AVE	HUYNH HIEN TIEN	3307 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	13452.1137
33	044038 00009	CMU-3	CMU-1	3347 SUMMER AVE	BROCK MARGARET L	10023 ROSEMARK RD	ATOKA TN 38004	Anchor Neighborhood - Mix of Building Types	7461.15925
34	044038 00010	CMU-3	CMU-1	3353 SUMMER AVE	TPB REAL ESTATE LLC	5840 FAIRWOOD LN	MEMPHIS TN 38120	Anchor Neighborhood - Mix of Building Types	28441.9071
35	044038 00010	CMU-3	CMU-1	3365 SUMMER AVE	IGLESIA PENTECOSTAL RIOS DE AGUA VIVA	3361 SUMMER AVE	MEMPHIS, TN 38122	Anchor Neighborhood - Mix of Building Types	25492,6731
36	044038 00012	CMU-3	MU	3375 SUMMER AVE	MOTHANNA INC	4650 SUMMER AVE	MEMPHIS, TN 38122	Anchor - Urban Main Street	28872.1159
30	044040 00001C	CMU-3	MU	3393 SUMMER AVE	GRIFFIN WILLIAM N JR (TR)	6489 QUAIL HOLLOW RD 100 STE	MEMPHIS, TN 38122 MEMPHIS, TN 38120	Wilchot - Orban Main Screet	85834.0339

Page 1 of 2

Summer Report Label	Parcel ID	Current Zoning	Proposed Zoning	Property Address	Owner Name	Owner Address	City State Zip	Future Land Use	Shape Area (sq ft)
38	044040 00040	CMU-3	MU	3437 SUMMER AVE	GATLINLEJR	4017 WASHINGTON RD 353 PMB	CANONSBURG, PA 15317	Anchor - Urban Main Street	3421,590222
39	044040 00037	CMU-3	MU	3459 SUMMER AVE	KIM YOUNG HOON & IN JA	3459 SUMMER AVE	MEMPHIS, TN 38122	Anchor - Urban Main Street	50870.83335
40	044040 00011	CMU-3	MU	3487 SUMMER AVE	PIRANHAINC	2400 AIRWAYS BLVD	MEMPHIS, TN 38114	Anchor - Urban Main Street	18953.04703
41	044088 00002	CMU-3	MU	3509 SUMMER AVE	PIERCEY VIRGINIA A J AND EDITH L J JONES	180 PERSON RD	OAKLAND, TN 38060	Anchor - Urban Main Street	6896.88349
		. 12			LANGE AND ADDRESS OF THE PARTY	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		Anchor Neighborhood - Mix of Building	
42	044088 00004	CMU-3	MU	3519 SUMMER AVE	MCGHEE JOSEPH E & GALE H	2429 LACOSTA DR	BARTLETT, TN 38134	Types	7155.711769
		and the same	100			And the second second		Anchor Neighborhood - Mix of Building	
43	044088 00008	CMU-3/OG	CMU-1/OG	3543 SUMMER AVE	ALLAD AUTO INC	3543 SUMMER AVE	MEMPHIS, TN 38122	Types	21161.56521
16.	Later Carl	De West	30.00	1 - T	Land of the second	to control or	E NOTE OF THE PARTY OF THE PART	Anchor Neighborhood - Mix of Building	
44	044088 00009C	CMU-3/OG	CMU-1/OG	3551 SUMMER AVE	FLORES EDGAR	3551 SUMMER AVE	MEMPHIS, TN 38122	Types	22069.95236
	Annal Street	4130	Annual Control					Anchor Neighborhood - Mix of Building	David Gill
45	044088 00011	CMU-3	CMU-1	3559 SUMMER AVE	PEAK PROPERTIES LLC	1779 KIRBY PKWY 143 STE	GERMANTOWN TN 38138	Types	14787.16099
C.	Jessey China	47.434	and the same state of	Later Made Later	AND AND RESPONDED AND THE PARTY OF THE PARTY	and disposits factorises of	Carlotte actions	Anchor Neighborhood - Mix of Building	i com contra
46	044088 00012	CMU-3	CMU-1	3569 SUMMER AVE	RKA INVESTMENTS LLC null	556 WILLIAMSBURG LN	MEMPHIS TN 38117	Types	14468,08083
		and the second	arrest.	Laboration and the second	Annual Company of the party of	and the late of the	Christian arrested	Anchor Neighborhood - Mix of Building	
47	044088 00031	CMU-3	CMU-1	3579 SUMMER AVE	THOMAS JANETTE S A AND ERROL THOMAS	3579 SUMMER AVE	MEMPHIS, TN 38122	Types	8513.460613
				****	GUPTA MANJU AND HEMANT GUPTA AND RAGINI GUPTA	and any management of the last		Anchor Neighborhood - Mix of Building	
48	044088 00032	CMU-3	CMU-1	3589 SUMMER AVE	(RS)	6245 RIVER GROVE CV	MEMPHIS, TN 38120	Types	20753.64946
49	044039 00018C	CMU-3	MU	0 NATIONAL ST	CITY OF MEMPHIS	125 N MAIN ST	MEMPHIS, TN 38103	Anchor - Urban Main Street	16620.85014
	244000 00000	01410	***	ard reserved	TO A CONTRIBUTE VIA STATE OF THE STATE OF TH	AFAF SIGNATURE AND	LANGUAGE THE TOLOGO	Anchor Neighborhood - Mix of Building	7000 0704×7
50	044088 00029	CMU-3	MU	3514 FORREST AVE	TRANSITIONS HALFWAY MINISTRIES	3515 SUMMER AVE	MEMPHIS, TN 38122	Types	6998.052117
51	044040 00038	CMU-3	MU	611 N HIGHLAND ST	BOYLE TRUST & INVESTMENT CO	PO BOX 17800	MEMPHIS, TN 38187	Anchor - Urban Main Street	15337.45349
			as area		King was discour		Controller with series	Anchor Neighborhood - Mix of Building	
52	044088 00017	CMU-3	CMU-1	3580 FORREST AVE	NELSON MATT	3580 FORREST AVE	MEMPHIS, TN 38122	Types	8220.059248
62	044000 00046	canto.	come.	DEAL CONDECT OF	DOLY LAWSELLA MI	2407 MUUTAUTY AUT	AACE ADD HE THE DESIGN.	Anchor Neighborhood - Mix of Building	0222 225100
53	044088 00016	CMU-3	CMU-1 MU	3584 FORREST ST	POLK LAKESHA W	2487 WHITNEY AVE	MEMPHIS, TN 38127	Types	8373.316189
54	038037 00034	CMU-3	MU	3400 SUMMER AVE	MCGARRY JOHN T LIVING TRUST MIGLIARA LAWRENCE JR	1611 E 53RD ST	CHICAGO, IL 60615	Anchor - Urban Main Street	45307.93416
55	044040 00039 038036 00009C	CMU-3/RU-1	MU/RU-1	3437 SUMMER AVE 3353 FAXON AVE	COLLEGIATE SCHOOL OF MEMPHIS (THE)	3254 WINBROOK 3353 FAXON AVE	MEMPHIS, TN 38116 MEMPHIS, TN 38122	Anchor - Urban Main Street Anchor - Urban Main Street	17694,32523 116465,9113
30	038036 00009C	LIVIO-3/NO-1	MO/KO-T	3333 FAXON AVE	COLLEGIATE SCHOOL OF MEMPHIS (THE)	3333 FAXUN AVE	WIEWFRIS, 1N 36122	Anchor Neighborhood - Mix of Building	110403.9113
57	044088 00014C	CMU-3	CMU-1	3590 FORREST AVE	GUS PROPERTIES INC	2020 QUAIL CREEK CV	MEMPHIS, TN 38119	Types	17144.03073
37	044000 000140	CIVID-3	CIVID-1	5550 FURNEST MAE	GOS PROFERINES INC	2020 GOME CHEEN CY	WILMITTIS, TH SOLLS	Types	1/144.050/5
58	063010 00014	CMU-3	CMU-1	4566 SUMMER AVE	BERCLAIR BAPTIST CHURCH	4584 SUMMER AVE	MEMPHIS, TN 38122- 4134	Low Intensity Commercial & Services	67813.3
-	000010 00014	Civio D	CINIO 2	1900 SOMMENTAVE		100100111112111112	THE HIT HE STATE THE STATE STA	East the later and the later a	0,023.3
59	063024 00002	CMU-3	CMU-1	4625 SUMMER AVE	TERMINAL-PLAZA ASSOCIATES	201 FILBERT ST STE 401	SAN FRANCISCO CA 94133-3238	Low Intensity Commercial & Services	65060.5
	000024 00002	CIVIO 3	CIND 1	MULD SOMMEN AVE	JESSINIANE I ENERGISSINIES	E0211E0E07 31 31 C 402	DAIL I INNECOCO CH 34233 3E30	con microsity commercial is services	03000.3
60	063010 00018	CMU-3	CMU-1	0 NOVARESE ST	BERCLAIR CHURCH OF CHRIST	666 NOVARESE ST	MEMPHIS, TN 38122	Primarily Single-Unit Neighborhood	16270.6
61	063010 00017	CMU-3	CMU-1	666 NOVARESE ST	BERCLAIR CHURCH OF CHRIST	4536 SUMMER AVE	MEMPHIS, TN 38122	Low Intensity Commercial & Services	25845.7
						3			200.000
62	063010 00016	CMU-3	CMU-1	4550 SUMMER AVE	MARTIN HILDA J LIVING TRUST	475 N HIGHLAND ST APT 8G	MEMPHIS, TN 38122	Low Intensity Commercial & Services	17736.0
	7,000,000			1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1					
63	063010 00015	CMU-3	CMU-1	4556 SUMMER AVE	BAIXA LLC	333 E 34TH ST # 15K	NEW YORK, NY 10016	Low Intensity Commercial & Services	9417.6
					The state of the s				
64	063022 00038	CMU-3	CMU-1	4600 SUMMER AVE	ABDELRAHMAN SAMEH FATTAH	4600 SUMMER AVE	MEMPHIS, TN 38122-4136	Low Intensity Commercial & Services	13623.7
65	063022 00039C	CMU-3	CMU-1	4628 SUMMER AVE	LANKFORD WILLIAM R	P O BOX 7971	MADISON WI 53707	Low Intensity Commercial & Services	35856.7
1							ka and the second		
66	063022 00037	CMU-3	CMU-1	4590 SUMMER AVE	ABELRAHMAN SAMEH FATTOH AND ABELRAHMAN F	4590 SUMMER AVE	MEMPHIS, TN 38122	Low Intensity Commercial & Services	17837.2
67	063007 00011	CMU-3	CMU-1	4527 SUMMER AVE	SILLS JUDITH A	3866 POPLAR AVE	MEMPHIS, TN 38111	Low Intensity Commercial & Services	9050.0
	Company of the Table			Assault Company	1000	January Salara	data transport	10-2-12	
68	063007 00012	CMU-3	CMU-1	4531 SUMMER AVE	SILLS JUDITH A	3866 POPLAR AVE	MEMPHIS, TN 38111	Low Intensity Commercial & Services	28225.4
	300000000000	and the same of	ar and	A TO POST OF THE PARTY OF THE P	AND THE PROPERTY OF THE PARTY O	La constantina de la constantina della constanti	- Market Committee Committ	I Committee of the second	
69	063024 00001	CMU-3	CMU-1	4597 SUMMER AVE	TERMINAL-PLAZA ASSOCIATES	201 FILBERT ST STE 401	SAN FRANCISCO, CA 94133- 3238	Low Intensity Commercial & Services	29568.4
			1000	democratical.	A Maria andre Maria andre Maria	No. of the Assessment	a salar a semanda sa sa	Married & December 1	
70	063007 00013C	CMU-3	CMU-1	4569 SUMMER AVE	FSC FMC-FD MEMPHIS TN LLC	1901 MAIN ST	LAKE COMO, NJ 7719	Low Intensity Commercial & Services	66269.7

Page 2 of 2

Office of Comprehensive Planning Review

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: \underline{Z} 20-10

Site Address/location: Summer Avenue between Holmes and Sevier

Land Use Designation (see page 82 & 94 for details): Anchor — Urban Main Street (A-UMS) & Anchor

Neighborhood — Mix of Building Types (AN-M) This review consists of the parcels listed below:

Number	Property Address	Future Land Use	Abbreviation
7	3445 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
8	0 N HIGHLAND ST	Anchor - Urban Main Street	A-UMS (Accelerate)
9	3515 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
11	630 N HIGHLAND ST	Anchor - Urban Main Street	A-UMS (Accelerate)
12	614 NATIONAL ST	Anchor - Urban Main Street	A-UMS (Accelerate)
13	610 NATIONAL ST	Anchor - Urban Main Street	A-UMS (Accelerate)
14	3502 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
19	3430 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
20	3432 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
21	3376 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
22	3440 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
24	3464 E SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
25	3476 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
26	657 E N HIGHLAND	Anchor - Urban Main Street	A-UMS (Accelerate)
28	3380 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
36	3375 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
37	3393 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
38	3437 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
39	3459 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
40	3487 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
41	3509 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
42	3519 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
49	0 NATIONAL ST	Anchor - Urban Main Street	A-UMS (Accelerate)
50	3514 FORREST AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
51	611 N HIGHLAND ST	Anchor - Urban Main Street	A-UMS (Accelerate)
54	3400 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
55	3437 SUMMER AVE	Anchor - Urban Main Street	A-UMS (Accelerate)
56	3353 FAXON AVE	Anchor - Urban Main Street	A-UMS (Accelerate)

Based on the Future Land Use Planning Map, the proposal is <u>CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 - 122:



The red boxes indicate the application sites on the Future Land Use Map.

2. Land use description & applicability:

The site is designated as Anchor – Urban Main Street (A-UMS). Urban Main Street anchors are characterized by attached mixed-use buildings that span multiple blocks along a street. An Urban Main Street provides retail and services to surrounding neighborhoods in a pedestrian-friendly environment, making it possible to accomplish several errands in a single trip. An Urban Main Street is a center of activity and supports a shared sense of community. See graphic portrayal to the right.



Part of the site is designated as Anchor Neighborhood — Mix of Building Types (AN-M). AN-M areas are a combination of one to three-story house-scale buildings with building scale large home and apartments of up to four stories close to anchors and along corridors. In these neighborhoods is a mix of attached, semi-detached, and detached residential, all located within a 10-minute walk from the anchor destination. Any mixed-use is along corridors, allowing shopping destinations to connect between mixed-use and residential neighborhoods. See graphic portrayal to the right.



"A-UMS" Goals/Objectives:

Support organization of services, amenities, opportunities, and housing choices in direct relationship to anchor neighborhoods, focusing investment toward areas that support plan goals and objectives, nodal development of continuous commercial corridors.

"AN-M" Goals/Objectives:

Preservation, stabilization, and/or intensification of neighborhoods, focusing investment toward areas that support plan goals and objectives, locating housing near services, jobs, transit, building up not out.

"A-UMS" Form & Location Characteristics:

Buildings are primarily attached and block-scale. There are a mix of uses, 1-7 stories in height and several blocks of extent.

"AN-M" Form & Location Characteristics:

ACCELERATE: Primarily detached, single-family house-scale residences of 1-3 stories in height. Attached, house-scale single-family, duplexes, triplexes and quadplexes of 1-3 stories in height permitted on parcels within 200 feet of an anchor and at intersections where the presence of such housing type currently exists. Building-scale large homes and apartments of 2-4 stories in height permitted on parcels within 100 feet of an anchor; at intersections where the presence of such housing type currently exists at the intersection. Other housing and commercial types along avenues, boulevards and parkways as identified in the Street Types Map where same types exist on one or more adjacent parcels.

The applicant is seeking a rezoning of 70 parcels along the Summer Avenue Corridor. This review focuses on 28 parcels from Holmes Street to Sevier Street. The parcels are to be rezoned from CMU-3 to MU.

The request meets the criteria because mix of uses is compatible and encouraged in Anchors. Mixed Use districts (MU) maximum building heights of 45 feet are well within the 1-7 stories that are compatible with A-UMS anchors.

Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential, Commercial, Office, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: RU-1 and OG. This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.

4. Degree of Change map



The red box indicates the application site. The Degree of Change is Accelerate.

5. Degree of Change Descriptions

Accelerate areas rely on a mix of primarily private and phalanthropic resources along with some public resources to intensify the essenging pattern of a place.

Actions for Accelerate anchors and anchor neighborhoods are meant to:

- Improve public realm and infrastructure
- Improve multi-modal transportation options
- · Speed up development activity
- · Increase density
- · Increase mix of uses
- Promote and protect affordable housing

Ways to Accelerate:

- · Increase building height
- · Allow greater mix of uses
- Attract retail and service uses that dated to larger-scale merkets
- Reclude building set backs or establish build to lines
- Construct new streets or pathways to increase connectivity within large sites
- Consolidate smaller lots into larger parcels that are more attractive for development
- Consider tax increment financing (TIF)
 detrices
- · improve or create parks and civic assess
- Promote pedestrian-oriented infill development
- Reduce surface parking in favor of structured parking and parking demand management options

Based on the information provided, the proposal is <u>CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Bradyn Carson, Office of Comprehensive Planning

Office of Comprehensive Planning Review

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: <u>Z 20-10</u>

Site Address/location: Summer Avenue between Holmes and Sevier

Land Use Designation (see page 82 for details): Anchor Neighborhood – Mix of Building Types (AN-M)

This review consists of the parcels listed below:

Number	Property Address	Future Land Use	Abbreviation
1	3300 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
2	0 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
3	3320 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
4	3522 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
5	3329 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
6	3337 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
10	3531 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
15	3315 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
16	0 N HOLMES ST	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
17	3316 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
18	3362 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
23	3562 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
27	3530 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
29	3540 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
30	3550 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
31	3297 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
32	3307 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
33	3347 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
34	3353 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
35	3365 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
43	3543 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
44	3551 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
45	3559 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
46	3569 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
47	3579 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
48	3589 SUMMER AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
52	3580 FORREST AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
53	3584 FORREST ST	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)
57	3590 FORREST AVE	Anchor Neighborhood - Mix of Building Types	AN-M (Accelerate)

Based on the Future Land Use Planning Map, the proposal is <u>CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 - 122:

1. FUTURE LAND USE PLANNING MAP FAXON FAXON FAXON FORREST NTERSTATE 40

The red boxes indicate the application sites on the Future Land Use Map.

2. Land use description & applicability:

The site is designated as Anchor Neighborhood — Mix of Building Types (AN-M). AN-M areas are a combination of one to three-story house-scale buildings with building scale large home and apartments of up to four stories close to anchors and along corridors. In these neighborhoods is a mix of attached, semi-detached, and detached residential, all located within a 10-minute walk from the anchor destination. Any mixed-use is along corridors, allowing shopping destinations to connect between mixed-use and residential neighborhoods. See graphic portrayal to the right.



INTERSTATE 40

"AN-M" Goals/Objectives:

Preservation, stabilization, and/or intensification of neighborhoods, focusing investment toward areas that support plan goals and objectives, locating housing near services, jobs, transit, building up not out.

"AN-M" Form & Location Characteristics:

ACCELERATE: Primarily detached, single-family house-scale residences of 1-3 stories in height. Attached, house-scale single-family, duplexes, triplexes and quadplexes of 1-3 stories in height permitted on parcels within 200 feet of an anchor and at intersections where the presence of such housing type currently exists. Building-scale large homes and apartments of 2-4 stories in height permitted on parcels within 100 feet of an anchor; at intersections where the presence of such housing type currently exists at the intersection. Other housing and commercial types along avenues, boulevards and parkways as identified in the Street Types Map where same types exist on one or more adjacent parcels.

The applicant is seeking a rezoning of 70 parcels along the Summer Avenue Corridor. This review focuses on 29 parcels from Holmes Street to Sevier Street. The parcels are to be rezoned from CMU-3 to CMU-1.

The request meets the criteria because commercial land uses are compatible with AN-M areas when located along a parkway. Summer Avenue is designated a Parkway by the Streets Type Map.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential, Commercial, Office, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: RU-1, CMU-1, and OG. This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.



The red box indicates the application site. The Degree of Change is Accelerate, ¼ mile.

INTERSTATE 40

5. Degree of Change Descriptions

Accisionate areas rely on a mix of primarily private and philanthropic resources along with some public resources to intensify the existing pattern of a place.

Actions for Accelerate anchors and anchor neighborhoods are meant to:

- Improve public realm and infrastructure
- Improve multi-modal transportation options
- Speed up development activity
- Increase density
- · Increase mix of uses
- · Promote and protect affordable housing

Ways to Accelerate:

- · Increase building height
- · Allow greater mix of uses
- Attract retail and service uses that cater to larger-scale markets

NTERSTATE 40

- Reduce building sechacks or establish build to lines
- Construct new streets or pathways to increase connectivity within large sites
- Consolidate smaller lots into larger parcels that are more attractive for development
- Consider tax increment financing (TIF)
 Alerstone
- · Improve or create parks and civic assets
- Promote pedestrian-oriented infill development
- Reduce surface parking in favor of structured parking and parking demand management options

Based on the information provided, the proposal is <u>CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Bradyn Carson, Office of Comprehensive Planning

Office of Comprehensive Planning Review

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: <u>Z 20-10</u>

Site Address/location: Summer Avenue between Novarese and Stratford Land Use Designation (see page 82 for details): Low Intensity Commercial & Services and Primarily Single Units.

This review consists of the parcels listed below:

Number	Property Address	Future Land Use	Abbreviation
58	4566 SUMMER AVE	Low Intensity Commercial & Services	CSL
59	4625 SUMMER AVE	Low Intensity Commercial & Services	CSL
60	0 NOVARESE ST	Primarily Single-Unit Neighborhood	NS
61	666 NOVARESE ST	Low Intensity Commercial & Services	CSL
62	4550 SUMMER AVE	Low Intensity Commercial & Services	CSL
63	4556 SUMMER AVE	Low Intensity Commercial & Services	CSL
64	4600 SUMMER AVE	Low Intensity Commercial & Services	CSL
65	4628 SUMMER AVE	Low Intensity Commercial & Services	CSL
66	4590 SUMMER AVE	Low Intensity Commercial & Services	CSL
67	4527 SUMMER AVE	Low Intensity Commercial & Services	CSL
68	4531 SUMMER AVE	Low Intensity Commercial & Services	CSL
69	4597 SUMMER AVE	Low Intensity Commercial & Services	CSL
70	4569 SUMMER AVE	Low Intensity Commercial & Services	CSL

Based on the Future Land Use Planning Map, the proposal is <u>CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 - 122:



The red boxes indicate the application sites on the Future Land Use Map.

2. Land use description & applicability:

Most of the subject area is Low Intensity Commercial and Service (CSL). CSL areas consist of low-rise buildings accessible mainly by a car and can encompass up to 5 acres of land for one building. These service areas are outside of the anchor boundary and are usually located along a corridor or within its own area of multiple commercial and service amenities. See graphic portrayal to the right.

One parcel of the subject area is Primarily Single-Unit Neighborhood (NS). NS areas are located greater than a half-mile outside of any anchor destination. These neighborhoods contain mostly detached, house scale residences, serving mostly single-family style living. This is considered the typical suburban community that is not as walkable or accessible from an anchor. See graphic portrayal to the right.



"CSL" Goals/Objectives:

Improved development patterns along auto-oriented commercial corridors, revitalization.

"NS" Goals/Objectives:

The future land use designation is appropriate for primarily detached, single-family residences and attached single-family residences permitted on parcels within 100 feet of an anchor. The height should be 1-2 stories. The structures should be house scale.

"CSL" Form & Location Characteristics:

Commercial and services uses 1-3 stories height.

"NS" Form and Location Characteristics:

Primarily detached House-scale buildings Primarily residential 1-3 stories Beyond 1/2 mile from a Community Anchor

The applicant is seeking a rezoning of 70 parcels along the Summer Avenue Corridor. This review focuses on 13 parcels from Novarese and Stratford. The parcels are to be rezoned from CMU-3 to CMU-1.

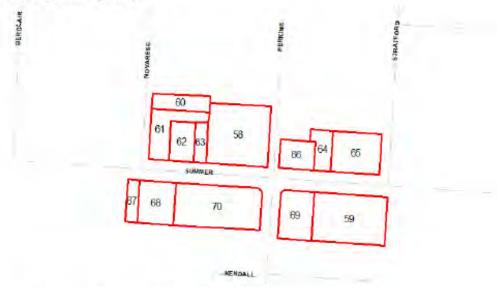
The request meets the criteria because commercial land uses are compatible with CSL areas and CMU-1 and districts are generally compatible. Parcel #60 is Primarily Single-Unit Neighborhood and is consistent because it is a vacant lot adjacent to the property and development will not disrupt the neighborhood character.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential, Commercial, Office, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: RU-1, CMU-3, CMU-1.

This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.

3. Degree of Change map



There is no degree of change for these sites.

 Degree of Change Descriptions N/A

Based on the information provided, the proposal is <u>CONSISTENT</u> with the Memphis 3.0 Comprehensive Plan.

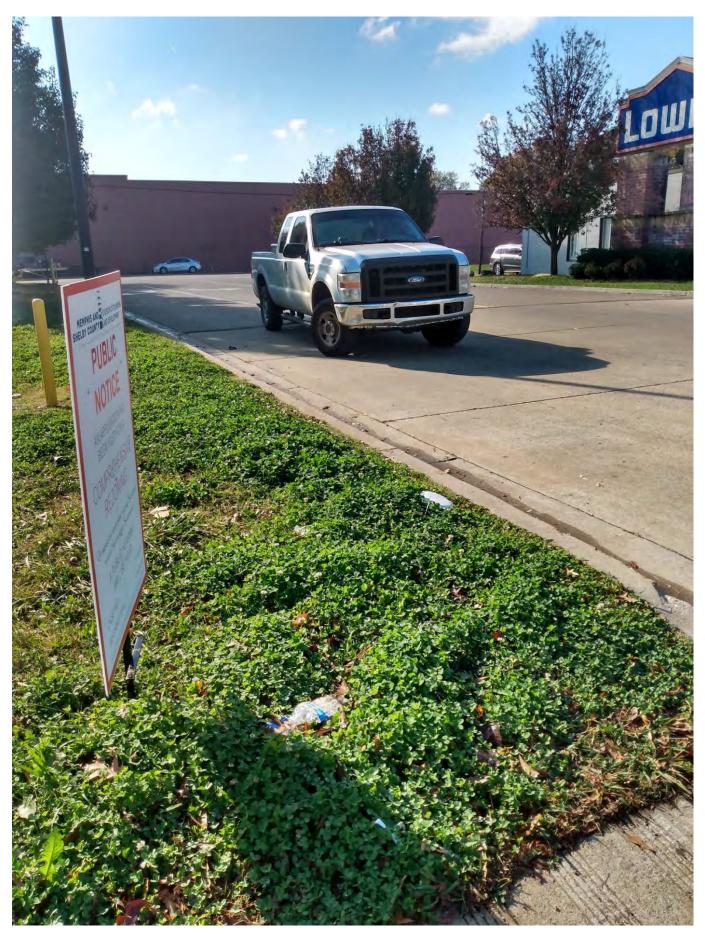
Summary Compiled by: Elizabeth Carey, Office of Comprehensive Planning

SIGN PHOTOGRAPHS









January 5, 2021
Planning and Zoning Documents

LETTERS RECEIVED

One letter of support was received by 4 December at 8 a.m. and has been attached.



September 17th, 2020

Memphis and Shelby County Office of Planning and Development Attn: Josh Whitehead

Re: Downzoning Highland Heights

Dear Mr. Whitehead,

The Summer Avenue Merchants' Association is in favor of rezoning "downtown" Highland Heights from CMU-3 to a Mixed Use district. A MU district will allow a blend of commercial and housing and aligns with the parcels that Memphis 3.0 identified as an "Urban Main Street." A Mixed Use zoning at this area is significant because it requires buildings to be built in close proximity to the side walk and that is the predominate building form in this area. A Mixed Use zoning designation would prohibit, at least by right, the demolition of historic, streetcar commercial properties from being replaced by buildings behind parking spaces and some auto-related uses. This will allow for excellent walkability in order to build a vibrant "downtown core."

The Summer Avenue Merchants' Association is also in favor of rezoning the areas east and west of the Highland Height's Urban Main Street, as well as immediately east and west of Perkins on Summer Avenue from CMU-3 to CMU-1. This will allow a conventional commercial zoning district, but prohibit auto-related commercial uses such as gas stations, tire shops, repair shops, etc., which are of abundance in the area.

The Summer Avenue Merchants' Association has concerns about pedestrian-oriented buildings being town down and replaced by auto-oriented buildings. The Association also has concerns about traffic and noise with these auto-related businesses disturbing the surrounding neighborhoods. By downzoning the areas mentioned above, our concerns would be addressed and vibrant, walkable areas could be built to revitalize the community.

Sincerely,

Meghan Medford

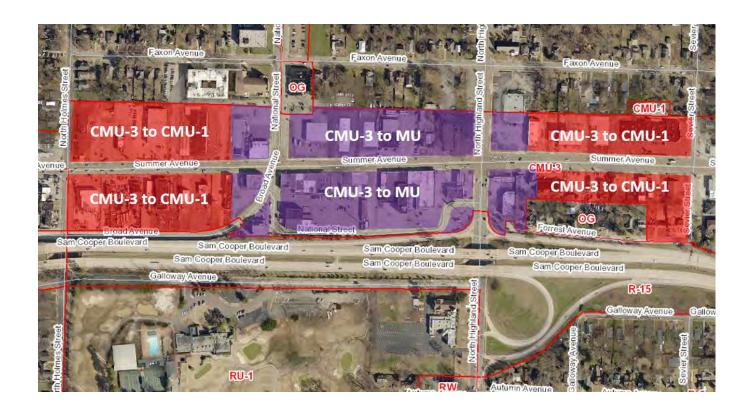
Summer Avenue Merchants' Association

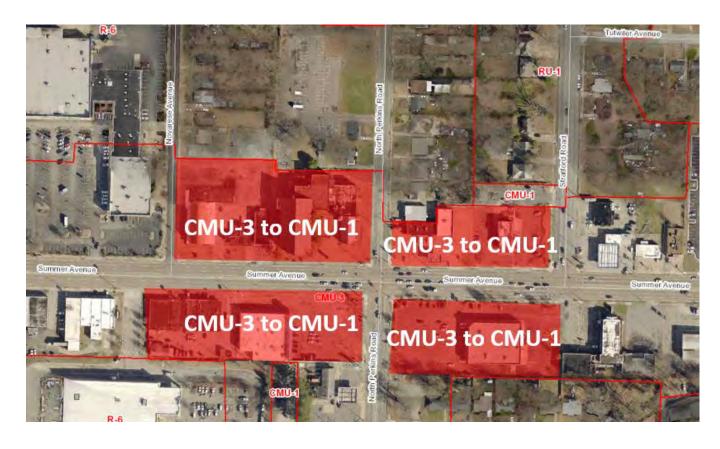
NOTICE OF TELEPHONIC PUBLIC HEARING ON PROPOSED AMENDMENT TO THE ZONING MAP OF THE CITY OF MEMPHIS

Notice is hereby given that, pursuant to Section 8-44-108 of the Tennessee Code Annotated, a Telephonic Public Hearing will be held by the Council of the City of Memphis on Tuesday 2 February 2021 at 3:30 p.m., in the matter of amending the Zoning Map of the City of Memphis, being Chapter 28, Article IV, of the Code of Ordinances of the City of Memphis, Tennessee, as amended, as follows:

Termessee, as amenaea, as force	, wa.					
CASE NUMBER:	Z 20-10					
LOCATION:	Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford					
COUNCIL DISTRICT:	UNCIL DISTRICT: District 5 and Super District 9					
APPLICANT:	Department of Comprehensive Planning of the Division of Planning and Development					
REPRESENTATIVE:	Ashley Cash					
EXISTING ZONING:	Commercial Mixed Use – 3					
REQUEST:	Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford					
RECOMMENDATIONS:						
Memphis and Shelby County D	vivision of Planning and Development: Approval					
Memphis and Shelby County L	and Use Control Board: Approval					
	Il take notice that on Tuesday 2 February 2021 at 3:30 p.m., the Council of the City of a session to hear opposition against the making of such changes; such opposition must register at 8 a.m.					
February at 8 a.m. with your (i)	ontacting Bryson Whitney at <u>bryson.whitney@memphistn.gov</u> no later than Monday 1 name, (ii) address, and (iii) the phone number from which you will be calling. Please note er the Council's Rules of Procedure, each side may speak no longer than 15 minutes.					
Please note video of this meetir https://www.youtube.com/Mem	ng will be streamed live on the City of Memphis' YouTube channel. The direct link is: nphisCityCouncil					
	the Planning and Zoning Committee on the same day with the specific time to be determined osted on the City of Memphis' website.					
THIS THE						
ATTEST:	PATRICE ROBINSON CHAIR OF COUNCIL					
<u>CANDI BURTON</u> CITY COMPTROLLER						

TO BE PUBLISHED:





REZONING to CMU-1

BERCLAIR BAPTIST CHURCH	TERMINAL-PLAZA ASSOCIATES	BERCLAIR CHURCH OF CHRIST
4584 SUMMER AVE	201 FILBERT ST STE 401	666 NOVARESE ST
MEMPHIS TN 38122- 4134	SAN FRANCISCO CA 94133- 3238	MEMPHIS, TN 38122
		WEW 1113, 114 30122
BERCLAIR CHURCH OF CHRIST	MARTIN HILDA J LIVING TRUST 475	BAIXA LLC
4536 SUMMER AVE MEMPHIS,	N HIGHLAND ST APT 8G MEMPHIS,	333 E 34TH ST # 15K
TN 38122	TN 38122	NEW YORK, NY 10016
ABDELRAHMAN SAMEH FATTAH	LANKFORD WILLIAM R	ABELRAHMAN SAMEH FATTOH AND
4600 SUMMER AVE	P O BOX 7971	ABELRAHMAN F
MEMPHIS TN 38122- 4136	MADISON WI 53707	4590 SUMMER AVE MEMPHIS, TN 38122
SILLS JUDITH A	SILLS JUDITH A	·
3866 POPLAR AVE		TERMINAL-PLAZA ASSOCIATES
	3866 POPLAR AVE	201 FILBERT ST STE 401
MEMPHIS, TN 38111	MEMPHIS, TN 38111	SAN FRANCISCO, CA 94133- 3238
FSC FMC-FD MEMPHIS TN LLC	NEW TYLER A M E CH	NEW TYLER A M E CH
1901 MAIN ST	3300 SUMMER AVE	3300 SUMMER AVE
LAKE COMO, NJ 7719	MEMPHIS, TN 38122	MEMPHIS, TN 38122
MID-STATE AUTOMOTIVE	DABIT STEVE AND DIANA DABIT	MOORMAN FRANK E
DISTRIBUTORAS INC	AND RAJI J DABIT AND BARBARA A DABIT (RS)	TESTAMENTARY TRUST
P O BOX 06116 CHICAGO, IL 60606	3276 WOODLAND TRCE E	5815 MICHAELSON DR OLIVE BRANCH, MS 38654
		OLIVE BRANCH, IVIS 30034
HOPE WORKS INC	MCGHEE JOSEPH E & GALE H	FRANKS WILLIAM C
1930 UNION AVE	2429 LACOSTA DR	3321 SUMMER AVE
MEMPHIS, TN 38104	BARTLETT, TN 38134	MEMPHIS, TN 38122
NEW TYLER A M E CH	HUA JUNWEI AND PEILI CHEN AND	MONTES EDVEST LAND DATE OF A
3300 SUMMER AVE MEMPHIS,	SIMON SU YUAN HUA (RS)	MONTESI ERNEST J AND PATRICIA M VEGLIO AND MARIA M BARLOW
TN 38122	5246 COSGROVE CV	PO BOX 722
111 30122	MEMPHIS, TN 38117	ELLENDALE, TN 38029
GREGORY REALTY GP	LINDER JAMES S	GRABER BLAIR S
PO BOX 382366	6310 MASSEY WOODS CV	3540 SUMMER AVE 103 STE
GERMANTOWN, TN 38183	MEMPHIS, TN 38120	MEMPHIS, TN 38122
CK DESIGNS LLC	GREENBERG BLATT CHILDREN LLC	HUYNH HIEN TIEN
3550 SUMMER AVE MEMPHIS,	15563 MANCHESTER RD	3307 SUMMER AVE
TN 38122	BALLWIN MO 63011	MEMPHIS, TN 38122

January 5, 2021 Planning and Zoning Documents Page 386

REZONING to CMU-1

TPB REAL ESTATE LLC IGLESIA PENTECOSTAL RIOS DE AGUA **BROCK MARGARET L** VIVA 5840 FAIRWOOD LN 10023 ROSEMARK RD 3361 SUMMER AVE MEMPHIS TN 38120 **ATOKA TN 38004** MEMPHIS, TN 38122 **FLORES EDGAR** PEAK PROPERTIES LLC ALLAD AUTO INC 3551 SUMMER AVE 1779 KIRBY PKWY 143 STE 3543 SUMMER AVE MEMPHIS, TN 38122 **GERMANTOWN TN 38138** MEMPHIS, TN 38122 THOMAS JANETTE S A AND ERROL **GUPTA MANJU AND HEMANT GUPTA** RKA INVESTMENTS LLC null **THOMAS** AND RAGINI GUPTA (RS) 556 WILLIAMSBURG LN 3579 SUMMER AVE 6245 RIVER GROVE CV MEMPHIS TN 38117 MEMPHIS, TN 38122 MEMPHIS, TN 38120 **POLK LAKESHA W GUS PROPERTIES INC NELSON MATT** 2487 WHITNEY AVE 2020 QUAIL CREEK CV 3580 FORREST AVE

MEMPHIS, TN 38127

MEMPHIS, TN 38122

MEMPHIS, TN 38119

REZONING to MU

WOFFORD GEORGE W II	BERUK PROPERTIES INC	TRANSITIONS HALFWAY MINISTRIES INC	
3333 POPLAR AVE	4646 POPLAR AVE 302 STE	3629 HIGHLAND PARK PL	
MEMPHIS, TN 38111	MEMPHIS, TN 38117	MEMPHIS, TN 38111	
		GRIFFIN WILLIAM N JR (TR)	
LOVEJOY HIGHLAND LLC	CALPICK HOLDINGS LLC	6489 QUAIL HOLLOW RD 100 STE	
6000 WALDEN DR 101 STE	614 NATIONAL ST	MEMPHIS, TN 38120	
KNOXVILLE, TN 37919	MEMPHIS, TN 38122	,	
WADLINGTON EMMIE L	THIRTY FOUR THIRTY SUMMER LLC	KIMBROUGH FAMILY TRUST (CO-TRS) (1/3%) AND	
PO BOX 1159	3880 ROUNDTREE RD 4 UNIT	1445 DONLON ST 20 STE	
DEERFIELD, IL 60015	JEFFERSON,MD 21755	VENTURA,CA 93003	
		HARBERT JOHN L	
IRBY BOBBY JR	BURIED TREASURES LLC	1935 EVELYN AVE	
3376 SUMMER AVE	PO BOX 22601	MEMPHIS, TN 38104	
MEMPHIS, TN 38122	MEMPHIS, TN 38122		
JACKSON AVE LLC	JACKSON AVE LLC	MIGLIARA LAWRENCE	
2903 S PERKINS RD	2903 S PERKINS RD	3254 WINBROOK DR	
MEMPHIS ,TN 38118	MEMPHIS, TN 38118	MEMPHIS, TN 38116	
MOTHANNA INC	GRIFFIN WILLIAM N JR (TR)	GATLIN L E JR	
4650 SUMMER AVE	6489 QUAIL HOLLOW RD 100 STE	4017 WASHINGTON RD 353 PMB	
MEMPHIS, TN 38122	MEMPHIS, TN 38120	CANONSBURG, PA 15317	
KIM YOUNG HOON & IN JA	PIRANHA INC	PIERCEY VIRGINIA A J AND EDITH L J	
3459 SUMMER AVE	2400 AIRWAYS BLVD	JONES	
MEMPHIS, TN 38122	MEMPHIS, TN 38114	180 PERSON RD	
,		OAKLAND, TN 38060	
MCGHEE JOSEPH E & GALE H	CITY OF MEMPHIS	TRANSITIONS HALFWAY MINISTRIES	
2429 LACOSTA DR	125 N MAIN ST	3515 SUMMER AVE	
BARTLETT, TN 38134	MEMPHIS, TN 38103	MEMPHIS, TN 38122	
BOYLE TRUST & INVESTMENT CO	MCGARRY JOHN T LIVING TRUST	MIGLIARA LAWRENCE JR	
PO BOX 17800	1611 E 53RD ST	3254 WINBROOK	
MEMPHIS, TN 38187	CHICAGO, IL 60615	MEMPHIS, TN 38116	
COLLEGIATE SCHOOL OF MEMPHIS (THE)			

3353 FAXON AVE

MEMPHIS, TN 38122